

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3397 of 2022

Ankur Kumar Roy and Another Petitioners
Mr. Manas Kumar Chand, Advocate

-Versus-

State of Odisha and Another Opposite Parties
Mr. Sitikanta Mishra, ASC, OP No.1
None for OP No.2

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
28.11.2022

Order No.

01. 1. Heard learned counsel for the petitioners and learned counsel for the State.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioners assailing the impugned order dated 23rd October, 2019 passed by the learned Additional Sessions Judge, Chatrapur, Ganjam in Sessions Trial No.18 of 2018 corresponding to G.R. No.49 of 2017 arising out of Hinjili P.S. Case No.58 of 2017 of the file of learned J.M.F.C., Hinjilicut whereby the case was transmitted to the court of learned Sessions Judge, Chatrapur on the ground that he does not have the jurisdiction to impose sentence with regard to offence under Section 364-A IPC.
3. Mr. Chand, learned counsel for the petitioners refers to Section 232 Cr.P.C. and submits that learned court below in absence of materials on record under Section 364-A IPC should have passed

orders as per law but instead transmitted the record to the Sessions court for having no jurisdiction to impose any sentence which is not tenable in law.

4. Mr. Mishra, learned counsel on the other hand submits that since the court below did not have jurisdiction to impose sentence of life and death has rightly passed the impugned order and transmitted the record hence committed no error or illegality.

5. It is submitted by Mr. Chand, learned counsel for the petitioner that after the prosecution evidence was over and statement of the petitioner under Section 232 Cr.P.C. stood recorded and before the commencement of the defense evidence, the learned court below pass the impugned order which is unjustified. In any view of the matter since the record is transmitted to the learned Sessions Judge such aspect shall be considered by looking at the materials on record and orders may be passed in terms thereof.

6. At this juncture, Mr. Chand, learned counsel for the petitioner submits that if the Court is not inclined to interfere with Annexure-1, a direction may be issued to the learned Sessions court in S.T. Case No.18 of 2018 to consider the said aspect with reference to Section 232 Cr.P.C.

7. Accordingly, it is ordered.

8. The CRLMC stands disposed of with a direction to the learned Additional Sessions Judge, Chatrapur to proceed with S.T. Case No.18 of 2018 of the file of J.M.F.C., Hinjilicut from the stage it had been received from the learned Additional Sessions Judge, Chatrapur and ensure its disposal as per and in accordance with law considering the plea of the petitioner with regard to absence of evidence vis-à-vis Section 364-A IPC and to accomplish the trial as expeditiously as possible preferably within a period of four months from the date of receipt of certified copy of this order.

9. Issue urgent copy of this order on proper application.

(R.K. Pattanaik)
Judge

U.K.Sahoo

