

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3452 of 2022

Tapan Kumar Ray

.... **Petitioner**
Mr. P.C. Jena, Advocate

-Versus-

State of Odisha and Another

.... **Opposite Parties**
Mr. S.S. Mohapatra, ASC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
05.12.2022

Order
No.
01.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. Instant petition under Section 482 Cr.P.C. is filed for quashing of the criminal proceeding in G.R. Case No.678 of 2022 arising out of Delanga P.S. Case No.245 of 2022 pending in the file of learned J.M.F.C., Pipili on the grounds stated therein.
3. Mr. Jena, learned counsel for the petitioner submits that it is a counterblast and the FIR has been lodged under Anenxure-1 with false allegations since the petitioner had lodged an FIR against the informant and others registered as Delanga P.S. Case No.315 dated 30th October, 2022 which was pursuant to the direction of this Court in CRLMC No.1907 of 2022 and Contempt Petition No.688 of 2022 and considering the above facts, the criminal proceeding should be quashed which is objected to by Mr. Mohapatra, learned counsel for the State on the ground that the victim said to have received injuries on account of assault by the

petitioner which is evident from Annexure-1 and as such for offence under Section 307 IPC, a case has been registered.

4. A copy of the FIR as at Annexure-1 is perused. The contents of the FIR indicate that the victim was assaulted by means of a key of a bullet motor-cycle repeatedly as result of which, he received head injuries. It is submitted by Mr. Jena, learned counsel for the petitioner that despite such a claim with regard to injury having been received by the victim, the IO is unable to ensure production of medical report and till date, investigation is underway.

5. Whether it is a case of false allegations and counter FIR lodged out of malafide is to be examined during and in course of trial. It is claimed that as a counterblast, the FIR was lodged by the informant to the criminal proceeding initiated against him by the petitioner in Delanga P.S. Case No.315 dated 30th October, 2022 but the same shall have to be examined by the learned court below after receiving the evidence from both the sides. In other words, it is not a fit where on such disputed claims, the Court is to entertain the plea for quashing of the criminal proceeding pending before the learned court below.

6. At this juncture, Mr. Jena, learned counsel for the petitioner submits that since with the false allegation, the FIR was lodged and the victim does not appear to have received any serious injury, the petitioner should at least be directed to surrender and released on bail if the Court is not inclined to interfere with the criminal proceeding at this stage.

7. Considering the above facts and submissions of respective parties, the CRLMC stands disposed of with a direction to the

petitioner to surrender before the learned J.M.F.C., Pipili on or before 22nd December, 2022 in connection with G.R. Case No.678 of 2022 arising out of Delanga P.S. Case No.245 of 2022 and in the event he surrenders, the court below shall release him on bail subject to conditions. Furthermore, the petitioner is granted liberty to raise all the grounds at the time of framing of charge and if any such application so moved by him, the learned Sessions court shall do well to pass appropriate order as per and in accordance with law of course only after the investigation results in submission of chargesheet.

8. Urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge



TUDU