

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3522 of 2022

Baijayanti Rout & Others

....

Petitioners

Mr. Akshaya Kumar Sahoo, Advocate

-Versus-

State of Orissa

....

Opposite Party

Mr. S.S.Mohapatra, ASC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

30.11.2022

Order No.

01. 1. Heard learned counsel for the petitioners and learned counsel for the State.
2. Prayer in the present case is to quash the impugned order dated 29th January, 2022 passed by the learned S.D.J.M., Jagatsinghpur in G.R. Case No.1325 of 2021 arising out of Jagatsinghpur P.S. Case No.611 of 2021 on the grounds stated thereon.
3. Learned counsel for the petitioners submits that after the FIR was lodged, Jagatsinghpur P.S. Case No.611 of 2021 was registered under Sections 294, 323, 307, 379, 506 and 34 of IPC and on completion of investigation, chargesheet has been filed against the petitioners under Sections 294, 323, 506 and 34 IPC excluding Section 307 IPC but then learned court below took cognizance of the offences under Sections 294, 323, 506, 307 & 34

IPC vide Annexure-3 which is currently under challenge. It is further submitted that as per the chargesheet, a copy which is at Annexure-2 series, the injuries sustained by the victim are found to be simple in nature but then despite that learned court below took cognizance of the offence under Section 307 IPC which is not tenable in law and the same is liable to be interfered with, which is objected to by Mr. Mohapatra, learned ASC for State on the ground that notwithstanding such simple injuries, the victim was assaulted in the manner which stand described in the FIR under Annexure-1 and that makes out a case for the said offence.

4. A copy of the FIR at Annexure-1 and the same is perused by this Court. It is made to appear from Annexure-1 that the victim was assaulted by fist and kick blows and also putting him down on the floor and standing over his neck. Considering the circumstances and the manner of assault and irrespective of the injuries received though simple in nature, the Court is of the view that the offences under Section 307 is prima facie made out considering the entirety of the materials along with the chargesheet under Annexure-2 series.

5. At this juncture, learned counsel for the petitioners submits that since the petitioners were issued with Section 41-A Cr.P.C., in the meantime, post-submission of chargesheet, NBWAs have been issued which are pending execution and therefore, at least the petitioners in the event the Court is not inclined to interfere with the impugned order under Annexure-3 should direct them to surrender and go on bail.

6. Considering the limited prayer, this Court disposes of the CRLMC with a direction to the petitioners to surrender before the learned District and Sessions Judge, Jagatsinghpur on or before 20th December, 2022 in G.R. Case No.1325 of 2021 arising out of Jagatsinghpur P.S. Case No.611 of 2021 and move for bail and in

such an event, learned court below shall release them on bail subject to conditions. The petitioners are also granted liberty to raise all the grounds as are available to them in law while seeking discharge and any such application if so moved before the court below, learned Sessions Court shall consider the same and pass appropriate order thereon as per and in accordance with law.

7. Issue urgent certified copy of this order as per rules.

(R.K. Pattanaik)
Judge

U.K.Sahoo

