

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.468 of 2021

Bhopal Patra

....

Petitioner

Mr.S.J.Mohanty, Advocate

-versus-

State of Odisha & another

....

Opposite Parties

Mr. M.K. Mohanty, ASC

CORAM:

JUSTICE S.K. PANIGRAHI

ORDER

24.01.2022

Order No.

- 01.
1. The matter is taken up through video conferencing mode.
 2. Heard learned counsel for the parties.
 3. The petitioner has preferred this revision against the order dated 13.09.2021 passed by the learned Sessions Judge-cum-Judge-Special Court, Bargarh in rejecting the petition filed under Section 227 Cr.P.C. to discharge him from the alleged commission of offences under Sections 417/376(2)/323/506 of the Indian Penal Code read with Section 3(1)(r)(s)(v) of SC & ST (PA) Amendment Act 2015 and Section 66(E)/67/67(A) of I.T. Act.
 4. Learned counsel for the petitioner submits that the F.I.R has been lodged against the petitioner on the allegation that the petitioner being a married man, established continuous physical relationship with the complainant/opposite party No.2 under the pretext of marrying, to which he later refused and the

petitioner is also alleged to have captured and threatened to release lewd pictures of said complainant/opposite party, abused her and her family members by aspersing their caste and warned of dire consequence. But, the materials on record do not reveal any specific act by the petitioner against the prosecutrix. That apart, the prosecutrix is a grown up lady of 22 year-old, quite educated and had voluntarily kept relationship with the petitioner for a long period due to love relationship between them. It is also submitted that the allegations under the I.T. Act do not fulfil the ingredients to proceed against the petitioner.

5. Learned counsel for the State submits that based on the statement of prosecutrix recorded under Section 164 Cr.P.C. there is sufficient materials to proceed against the petitioner in the aforesaid sections of law as mentioned in the charge sheet. Hence, learned Sessions Judge, Bhadrak has been prima-facie satisfied to frame charge against the petitioner. It is further submitted that Section 227 Cr.P.C. envisages that:

“if upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is no sufficient ground for proceeding against the accused, he shall discharge the accused by exercising his judicial discretion on the facts of the case in order to determine whether a case for trial has been made out by the prosecution. Law enshrines that for the purpose determining whether there is sufficient ground for proceeding against an accused the Court possesses a

comparatively wider discretion. Whereas a strong suspicion may not take the place of proof at the trial stage, yet it may be sufficient for satisfaction of the Court in order to frame a charge against the accused. Further, where the material placed before the court discloses grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeds with the trial. However, the “ground” in the context is not a ground for conviction, but a ground for putting the accused on trial. It is in the trial the guilt or the innocence of the accused will be determined and not at the time of framing of charge. It is settled principle of law that the Court need not undertake an elaborate inquiry in shifting and weighing the material nor it is necessary to delve deep into various aspects at the time of framing of charge and all that the Court has to consider is whether the evidentiary material on record if generally accepted would reasonably connect the accused with the crime and no more need be inquired into. It is also the settled principle of law that the court is neither a substitute nor an adjunct of the prosecution. On the contrary once a case is presented to it by the prosecution, its bounden duty is to consider through the material to ascertain whether a prima facie case has been established which would justify the framing of charge.”

6. On perusal of the materials on record especially the F.I.R. , statements of the witnesses recorded by the I.O. U/s 161 Cr.P.C. as well as statement under Section 164 Cr.P.C. which was read out by the learned counsel for the petitioner in the open Court it clearly reveals that the petitioner has committed the alleged offences. Accordingly, the learned court below has rightly passed the order in rejecting the petition under Section 227 Cr.P.C..

7. Accordingly, the criminal revision being devoid of merit stands dismissed.

8. As the restrictions due to resurgence of Covid-19 are continuing, learned counsel for the parties may utilize a print out of the order available in the High Court's website, at par with certified copy, subject to attestation by the Advocate concerned with his/her seal, in the manner prescribed vide Court's Office Order dated 7th January, 2022.

LB

