

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3535 of 2022

Saroj Padhi @ Saroj Kumar Padhy and Petitioners
Another

Mr. Anupam Dash, Advocate

-Versus-

State of Odisha 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. Instant petition under Section 482 Cr.P.C. is filed by the petitioners for quashing of the order of cognizance dated 21st July, 2022 passed by the learned S.D.J.M., Chatrapur in G.R. Case No.237 of 2022 arising out of Chatrapur P.S. Case No.146 of 2022 under Annexure-3 whereby learned court below took cognizance of an offence under Section 307 IPC notwithstanding the fact that the petitioners were not chargesheeted for the said offence.
3. Copy of the FIR under Annexure-1 is perused.
4. Admittedly under Section 307 IPC and other allied offences, as borne out from the FIR, Chatrapur P.S. Case No.146 of 2022 was registered but the chargesheet indicates that said offence was excluded qua the petitioners. Learned counsel for the petitioners

submits that learned court below could not have taken cognizance despite having not been chargesheeted under Section 307 IPC and cites a decision in the case of **State of Gujarat Vrs. Girish Radhakrishnan Varde** reported in **(2014) 3 SCC 659** in support of his contention.

5. Mr. Mohapatra, learned counsel for the State on the other hand submits that he is to go through and examine said judgment relied upon by the learned counsel for the petitioners and requires some time to respond back to the Court. It is further submitted that notices under Section 41-A Cr.P.C. were served during the stage of investigation but later NBWAs have been issued by the learned court below. Instead of keeping the matter pending, the Court is of the view that the petitioners should be directed to surrender and released on bail keeping in view the peculiar facts and circumstances of the case subject to conditions as would be fixed by the court below.

6. Accordingly, it is ordered.

7. Consequently, the CRLMC stands disposed of with a direction to the petitioners to surrender before the learned S.D.J.M., Chatrapur on or before 20th December, 2022 in G.R. Case No.237 of 2022 arising out of Chatrapur P.S. Case No.146 of 2022 and in the event they surrender, learned court below shall release them on bail subject to conditions as deemed just and proper by the court below in the facts and circumstances of the case.

8. Issue urgent certified copy of this order as per and in accordance with rules.

(R.K. Pattanaik)
Judge

