

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.559 of 2022

Shiva Prasad Agrawal and others* *Petitioners

Mr. Abhilash Mishra, Advocate

-versus-

State of Odisha and another* *Opposite Parties

Mr.R. Tripathy,
Addl. Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER
09.12.2022.

Order No.

01. 1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Petitioners and learned Addl. Standing Counsel for the State.
3. The Petitioners are aggrieved by order dated 20th October, 2022 passed by learned Gramya Nyayadhikari-cum-J.M.F.C., Dunguripali in I.C.C. No.12/17 of 2011-19 whereby the petition filed by them for discharge was rejected.

4. The facts of the case, briefly stated, are that one Bajranglal Agrawal son of Kedarnath Agrawal being the Managing Director of Sri Shyamji Rice Product Pvt. Ltd. lodged an F.I.R. before the I.I.C. of Dunguripali Police Station on 22nd November, 2010 alleging therein that the present Petitioners entered into his Office in the Rice Mill being armed with weapons including a gun. One of the culprits namely, Jayasing Agrawal threatened him by placing a gun on his head and snatched away cash of Rs.2,00,000/- from his cash drawer. The case was registered as Dunguripali P.S. Case No.94/2010 under Sections 451/506/379/34 of I.P.C. and Sections 25 and 27 of the Arms Act.

5. In course of investigation, the I.O. was of the view that the case was lodged as a counter to a case filed earlier by the Petitioners themselves against the informant and that the allegations are false and accordingly, he submitted 'Final Report False'. Notice of such Final Report being issued, the informant filed the complaint (I.C.C. No.12/2011) in the form of a protest petition reiterating the allegations made in the F.I.R. Initial statement of the complainant (Bajranglal Agrawal) was recorded and thereafter the learned Magistrate conducted enquiry under Section 202 of Cr.PC. in course of which, the statement of three witnesses were recorded. Basing on such statements, learned court below took cognizance of the offences. The Petitioners having appeared, filed an application on 23rd August, 2022 for discharge, which came to be rejected

by order dated 20th October, 2022, which is impugned in the present revision.

6. Heard Mr. Manoranjan Muduli, learned counsel for the Petitioners and Mr. Rajesh Tripathy, learned Addl. Standing Counsel for the State.

7. It is submitted by Mr. Muduli that the F.I.R. was lodged as a counterblast to the case registered at the instance of the present Petitioners against the informant. Such fact having come to light during investigation, the I.O. rightly submitted Final Report. Under such circumstances, the statement of the witnesses cannot be treated as sacrosanct and therefore, the Court below must be held to have committed error in rejecting the petition for discharge.

8. Per contra, Mr.R. Tripathy, learned Addl. Standing Counsel, contends that it is precisely to provide a remedy against submission of Final Report by Police on unjustified grounds that law has provided opportunity to the informant to file protest petition. Therefore, only because a Final Report was submitted, does not, ipso facto, mean that the allegations made in the F.I.R. are completely false that they cannot be proved by adducing evidence. Moreover, at the stage of framing of charge, the Court is required to make a prima facie assessment of the materials on record to form an opinion whether an offence has been committed or not.

9. I have considered the submissions of the parties carefully and have also perused the materials on record. The facts are not disputed inasmuch as the F.I.R. lodged by Bajranglal Agrawal, S/o. Kedarnath Agrawal ultimately ended in Final Report being submitted. Thereafter, on protest petition being filed, the complaint(I.C.C. No.12/2011) was filed and taken on record. Perusal of the initial statement of the complainant reveals that he has stated the same thing as averred in the complaint petition. The three witnesses examined in the enquiry under Section 202 of Cr.P.C. have also supported his version entirely, which reveals a prima facie case against the Petitioners. It is the settled position of law that the Court is not required to delve deep into the merits of the case to see whether the accused persons are guilty of the offence or not at the stage of framing of charge. The Court is to consider the evidence on record only for the purpose of drawing a presumptive opinion regarding commission of the offence by the accused persons. In other words, the Court must examine the materials to see whether there are sufficient materials to presume that the accused persons may have committed the offence. The defense plea is not be considered at this stage. Such being the position of law, this Court finds nothing wrong in the order of learned court below in refusing to discharge the Petitioners so as to interfere. On the contrary, this Court finds that the learned Court below has rightly held that sufficient grounds exist for it to presume that the accused persons have committed the offence alleged.

10. In such view of the matter, this Court finds no merit in the CRLREV which is therefore, dismissed.

AKB

(Sashikanta Mishra)
Judge

