

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3858 of 2022

Satrughan Bera

....
Mr. Udit Ranjan Jena, Advocate

Petitioner

-Versus-

State of Odisha

....
Mr. S.S. Mohapatra, ASC

Opposite Party

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
13.12.2022

Order No.

01.

1. Heard learned counsel for the respective parties.
2. Challenge in the instant case is to the order of cognizance dated 20th March, 2017 passed by learned J.M.F.C., Basudevpur in G.R. Case No.718 of 2016 arising out of Chudamani Marine P.S. Case No.50 of 2016 wherein learned Magistrate has taken cognizance against the petitioner for the offences under Sections 457, 354-B, 376, 511 and 506 IPC.
3. Perused the copy of the FIR under Annexure-1.
4. Learned counsel for the petitioner submits that after lodging of the FIR under Annexure-1, the petitioner was forwarded for a lesser offence which is revealed from the order dated 27th January, 2017, however, after completion of investigation, chargesheet under Section 376 and 511 besides other offences was submitted. It is submitted that a direction may be issued for the petitioner to surrender before the learned court below and released on bail especially when an offence under Sections 376 and 511 IPC are not made out even on the allegation as per Annexure-1.

5. Though the case under Sections 457, 354(B), 376, 511 and 506 IPC was registered but in the year 2016, as it appears from Annexure-3, the petitioner was remanded for an offence under Section 354-B IPC however later on he has been chargesheeted whereupon learned court below took cognizance of the offence under Section 376 read with 511 IPC. Having regard to the nature of allegation under Annexure-1 as revealed from the FIR and the fact that the petitioner had been granted bail for a lesser offence of course, the Court is of the view that he should be directed to surrender and released on bail. In other words, though the Court is not inclined to quash the impugned order under Annexure-3, which is with regard to the order of cognizance but is of the view that petitioner should be allowed to surrender and released on bail.

6. Accordingly, it is ordered.

7. Consequently, the CRLMC stands disposed of with a direction to the petitioner to surrender before the learned J.M.F.C., Basudevpur in G.R. Case No.718 of 2016 arising out of Chudamani Marine P.S. Case No.50 of 2016 and in the event he surrenders, the court below shall release him on bail with conditions as would be found just and proper in the facts and circumstances of the case.

8. Issue urgent certified copy of this order on proper application.

(R.K. Pattanaik)
Judge

U.K.Sahoo