

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2703 of 2021

Anil Pradhan @ Bhabani Shankar
Pradhan

....

Petitioner

Mr. P.S. Das, Advocate

-Versus-

State of Odisha and Another

....

Opposite Parties

Mr. T.K. Praharaj, SC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
30.09.2022

Order
No.

01.

1. Heard learned counsel for the petitioner and learned Standing Counsel for the State.

2. In the present case, the challenge is as to the order cognizance dated 29th October, 2021 passed in Special Case No.76 of 2021 by the learned Additional Sessions Judge-cum-Special Judge, Keonjhar on the ground of compromise between the parties.

3. Learned counsel for the petitioner submits that the complainant, who is the father of the victim, moved the learned Special Court by an affidavit dated 21st October, 2021 for appropriate order on the ground of compromise with the petitioner but the same was not entertained. It is further submitted that in view of such compromise between the victim's father and the petitioner, the criminal proceeding pending before the learned court below in Special Case No.76 of 2021 should be quashed in the interest of justice which is strongly objected to by Mr. Praharaj,

learned counsel for the State on ground that by merely accepting an affidavit about compromise, the proceeding should not be terminated, especially when the allegation is clear and conspicuous to the effect that the victim was dragged and abducted and was subjected to rape in the hands of the petitioner.

4. The Court perused the FIR, a copy which is at Annexure-1. The circumstances leading to the lodging of FIR stands described therein. Having regard to the nature of allegations as it appears from the FIR, since there is prima facie case made out, the criminal proceeding arising there from should not be quashed. That apart the victim at the relevant point of time was 16 years old, hence, was a minor and considering the conduct of the petitioner, notwithstanding an affidavit filed by the victim's father, namely, the complainant, the Court is of the view that inherent jurisdiction should not be exercised to quash such a proceeding morefully when the offences are under Section 376 IPC and 6 of the POCSO Act. So therefore, the contention of the learned counsel for the petitioner for quashing of the criminal proceeding on the ground of compromise cannot be accepted.

5. At this juncture, learned counsel for the petitioner submits that the petitioner should at least be directed to surrender before the learned Special Court and move for regular bail with a direction that the same to be considered on the same day of his surrender. It is submitted that the petitioner did not approach this Court at any point of time seeking relief of bail. Considering such submission, the Court is of the view that the petitioner should go and surrender before the Special Court and pray for bail for its consideration on merit.

6. Accordingly, it is ordered.

7. In the result, the CRLMC stands disposed of with a direction to the petitioner to surrender before the learned Additional Sessions Judge-cum-Special Judge, Keonjhar on or before 21st October, 2022 in connection with Special Case No.76 of 2021 and in the event, he surrender within the stipulated time, the court shall consider his prayer for bail on merit and dispose it on the same day without being influenced by any of the observations made by this Court herein above.

8. An urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge

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