

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2726 of 2021

Prasanta Kumar Nayak

....
Petitioner
Mr. U.R. Jena, Advocate

-Versus-

State of Odisha and Another

....
Opposite Parties
Mr. S.S. Mohapatra, ASC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
07.12.2022

Order
No.

01.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. Prayer in the present is for quashing of the order dated 17th November, 2021 passed in ICC Case No.611 of 2019 by the learned S.D.J.M., Balasore whereby an application under Section 205 Cr.P.C. at the behest of the petitioner was rejected.
3. A copy of the complaint is at Annexure-1 and the same is perused. In fact, a complaint is filed by opposite party No.2 against the petitioner for an offence under Section 138 of the NI Act.
4. At the stage of appearance, the petitioner moved an application under Section 205 Cr.P.C for dispensing with his personal attendance at a time when the court had already issued a non-bailable warrant of arrest against him. The said application was disposed of by order dated 17th November, 2021 under Annexure-4.
5. Learned counsel for the petitioner submits that the petitioner is a businessman and therefore, learned court below

ought to have considered the same and allowed his personal attendance to be exempted in terms of Section 205 Cr.P.C. However, there is no material on record to show that the petitioner ever produced any papers before the learned court below to satisfy him to be a businessman while insisting for his personal attendance to be exempted. The Court perused the impugned order under Annexure-4 and no such ground appears to have been taken before the learned court below for the said purpose. Even assuming that the petitioner to be a businessman, the Court is of the view that no case for exemption is made out and whenever it is necessary may apply for in terms of Section 317 Cr.P.C. In the other words, the Court does not find any reason or ground to interfere with the impugned order dated 17th November 2021.

6. Accordingly, it is ordered.

7. In the result, CRLMC stands dismissed however with a direction to the petitioner to surrender before the learned S.D.J.M., Balasore in connection with ICC Case No.611 of 2019 on or before 22nd December, 2022 and in the event he surrenders within the time stipulated, the court below shall release on bail subject to conditions. It is further directed that the petitioner shall have the liberty to apply for exemption under Section 317 Cr.P.C as and when necessary and the same shall be considered by the learned court below accordingly.

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

(R.K. Pattanaik)
Judge