

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3912 OF 2023

Biswajit Pattanaik and another

Petitioner(s)

Mr. D. P. Dhal, Senior Advocate
along with
Mr. S. Mohapatra, Advocate

-versus-

State of Odisha and another

Opposite Party(s)

Mr. P. K. Maharaj, ASC

CORAM: JUSTICE SIBO SANKAR MISHRA

ORDER

21.02.2024

CRLMC No.3912 of 2023 & I.A. No.2725 of 2023

Order No.

02.

1. Heard.
2. Authorization memo filed in Court today by Mr. Debi Prasad Dhal, learned Senior Advocate on behalf of the Petitioners be kept on record.
3. The Petitioners have challenged the order dated 31.07.2023 passed by the learned ADJ-cum-Special Judge, (POCSO), Kendrapara in 1.C.C. Case No.329 of 2022.
4. Mr. Dhal, learned Senior Counsel for the Petitioners submits that the same complainant/Opposite Party No.2 earlier had implicated the Petitioner No.2 and filed Kendrapara Sadar P.S. Case

No.380 of 2021 under Sections 417, 493 and 376(2)(n) of the I.P.C. The Petitioner No.2 approached this Court seeking bail. On 29.09.2021, the coordinate Bench of this Court allowed the application of the Petitioner No.2 and granted him bail. The Opposite Party No.2 applied for cancellation of bail by moving CRLMA No.104 of 2022. The said application was also turned down by the coordinate Bench of this Court on 19.09.2022.

5. Out of frustration and vengeance, the Opposite Party No.2 again filed a separate case against the Petitioners. The said F.I.R. came to be registered on 27.12.2021 being Kendrapara Sadar P.S. Case No.675 of 2021 under Sections 341, 363, 511, 354-B, 294, 506 and 34 of I.P.C. After investigation, the police filed a closure report insofar as the said F.I.R. is concerned vide report dated 27.07.2022. The Opposite Party No.2 by way of a protest petition filed 1.C.C. Case No.329 of 2022. Preliminary statements were recorded by the Court below and thereafter vide order 31.07.2023, cognizance of the offences under Sections 341, 354-B and 34 of I.P.C. read with Section 8 of the POCSO Act has been taken. Petitioners are aggrieved by the said order and seek indulgence of this Court.

6. Issue notice to the Opposite Parties. Mr. Maharaj, learned Additional Standing Counsel appears on behalf of the State-Opposite Party No.1 and waives the notice.

7. Notice be issued to Opposite Party No.2 by Speed Post/Registered Post with A.D., fixing a short returnable date. Requisites shall be filed within three working days.

8. In the meantime, further proceeding in 1.C.C. Case No.329 of 2022 arising out of G.R. Case No.2828 of 2021 in relation to Kendrapara Sadar P.S. Case No.675 of 2021 pending in the Court of the learned ADJ-cum-Special Judge (POCSO) is stayed till the next date of hearing.

9. List this matter on 28th March, 2024.

(S.S. Mishra)
Judge

Swarna

Signature Not Verified

Digitally Signed
Signed by: SWARNAPRAVA DASH
Designation: Senior Stenographer
Reason: Authentication
Location: High Court of Orissa
Date: 22-Feb-2024 20:03:09

