

(1999) 06 OHC CK 0024

In the Orissa High Court

Case No : Criminal Miscellaneous Case No. 3906 of 1998

Kailash Chandra Mohanty

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 25-06-1999

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 205
Penal Code, 1860 (IPC) — Section 120B, 409, 477A

Citation : (1999) 88 CLT 255 : (1999) 2 OLR 165

Hon'ble Judges : P.K. Misra, J

Bench : Single Bench

Advocate : S.K. Mund, D.P. Das and D.K. Panda, for the Appellant; Addl. Standing Counsel, for the Respondent

Judgement

P.K. Misra, J.—The present petition has been filed by the accused challenging the order dated 1.9.1998 passed by the Chief Judicial Magistrate, Cuttack, in G.R.Case No. 1325 of 1992 rejecting the application of the petitioner u/s 205, Code of Criminal Procedure, 1973 (in short, the "Cr.P.C").

2. The petitioner is facing trial in the Court of the Chief Judicial Magistrate under Sees. 409, 477A and 120B, Indian Penal Code (in short, the "IPC") alongwith Section 205, Cr.P.C. supported by certificate of a doctor on the ground that he had been advised absolute bed-rest and was not in a position to move. The said petition was rejected by the Chief Judicial Magistrate mainly on the ground that the period for bed- rest advised by the doctor was already over.

3. In this petition, the counsel for the petitioner submitted that the health of the petitioner continues to be indifferent. The learned counsel for the petitioner further submitted that the trial Court did not consider the principles of law decided in several decisions of this Court, such as reported in 47 (1979) CLT 105 (Smt. Savitri Sahuani and Anr. v. Maguni Sahu) : 1985 (II) OLR 681 (Jogendra Mohan Panda and Anr. v. State and Anr.) : 74 (1991) CLT 124 (Tilotama Kar and Ors. v. Ranjitarani Satpathy and Ors.). 62 (1984) CLT486 (Dinakrushna Tripathy

(and after him) Sunamani Tripathy and Ors. v. Managing Committee of Sri Jagannath Temple) and (1991) 4 OCR 686 : (K. Narayan Patra v. Gopinath Sahu), whereas it has been laid down that the provision contained in Section 206, Cr.P.C. should be liberally construed. Without delving into the questions raised by the petitioner and keeping in view the fact that there has been a long gap in the meantime, the petition is "disposed of with the observation that fresh application may be filed by the petitioner u/s 205, Cr.P.C. and if such fresh petition is filed, the same shall be considered on its own merit keeping in view the principles of law enunciated in various decisions of this Court noted above. It is made clear that no opinion has been expressed on the merits of the contentions raised by the parties.

The Criminal Misc. Case is disposed of subject to aforesaid observation.