
(2005) 05 OHC CK 0042

In the Orissa High Court

Case No : Criminal Miscellaneous Case No. 2622 of 2004

Karunakar Nayak and Others

APPELLANT

Vs

State of Orissa and Another

RESPONDENT

Date of Decision : 19-05-2005

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 34, 341, 427, 506
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3

Citation : (2005) CLT 937 (Suppl CrI) : (2005) CriLJ 4430 : (2005) 2 OLR 325 :
(2005) OLR 937 (Suppl CrI)

Hon'ble Judges : I.M. Quddusi, J

Bench : Single Bench

Advocate : A.K. Pandey and P.K. Samal, for the Appellant; Additional
Government Advocate (for O.P. No. 1) and S.P. Mohanty, (for O.P. No. 2), for the
Respondent

Final Decision : Allowed

Judgement

I.M. Quddusi, J.—The present petition u/s 482, Criminal Procedure Code has been filed by the petitioner against an order dated 13.11.2004 passed by the learned J.M.F.C., Pattamundai in G.R.Case No. 44 of 2004, by which the learned Magistrate rejected the final report submitted by the Investigating Officer in Pattamundai P.S. Case No. 20 of 2004, registered for the offences punishable under Sections 341, 427, 506/34. IPC and Section 3 of the Scheduled Caste and Scheduled Tribe (P.A.) Act (in short "the Act"). The Investigating Officer had submitted a report through the officer-in-charge of the P.S. concerned after conclusion of the investigation with the observation that witnesses named in the FIR had not well proved the occurrence. According to them the FIR was lodged on some misconception of fact and both the parties were living happily in the village.

2. The brief facts of the case are that opposite party No. 2, Narayan Mallick

lodged a written report before the Officer-in-Charge, Pattamundai P.S. alleging therein that on 10.2.2004 at night, he alongwith others had been to village Alapua to watch the Opera party. After bringing the ticket when they watched the Opera one Surendra Mallick abused him in filthy language and assaulted him. On being protested by the brother of the opposite party No. 2, the accused persons assaulted him for which both the informant and his brother sustained injuries on their person.

3. During the pendency of the investigation, the parties arrived at an amicable compromise and informed the same to the Investigating Officer, Ultimately, a petition u/s 482, Cr.P.C. was filed by the petitioner in this Court which was registered as Crl. Misc. Case No. 910 of 2004 and disposed of on 23.4.2004 with the following orders :

"Heard learned counsel for the petitioners and learned Addl. Standing Counsel.

This application has been filed for quashing the FIR in Pattamundai P.S. Case No. 19 of 2004 stating that the matter has been settled between the parties and in spite of such fact being brought to the I.O., he has proceeded with the investigation of the case. Since the matter is stated to be settled between the parties, the I.O. is directed to investigate in that regard and submit report before the trial Court accordingly.

The Criminal Misc. Case is disposed of.

Sd/- L. Mohapatra, J."

4. Thereafter, the I.O. came to the conclusion that none of the witnesses would prove the case before the Court, as they were not intending to give proper evidence after compromise. An affidavit had also been annexed to this petition as Annexure-3 on being verified by the Notary Public, Kendrapara Town dated 22.3.2004 and the same being sworn to by Narayan Mallick, opposite party No. 2, in which he has stated that due to some heated quarrel between him and the accused persons, he lodged the FIR on misconception of fact. However, the dispute between them has been compromised by the village gentries, and thereafter there was no breach of peace among both the parties and good amicable relationship has been restored between the parties. Both the parties are living peacefully in the village and as such opposite party No. 2 does not want to proceed with the case. The affidavit has been filed in G.R.Case No. 44 of 2004.

5. On 11.2.2005, the opposite party No. 2 Narayan Mallick, Informant was present in Court being identified by his Advocate Mr. Mohanty, who stated that he does not want to proceed against the accused persons as they are living peacefully and there is no dispute existing between them.

6. Learned J.M.F.C., Pattamundai considered the final report vide his order dated 13.12.2004 and rejected the same on the ground that the compromise cannot be effected between the parties out of Court and that there was sufficient material

to proceed with the case.

7. The offences mentioned in the FIR are not serious in nature. If the parties are not allowed to an amicable settlement and they are compelled to come to the witness box and contest the case, there is likelihood of disturbing the peace in the village although none of them are supporting the prosecution case. Therefore, in case the trial is allowed to be proceeded with, it will not be in the interest of justice and will also be an abuse of the process of the Court. In the peculiar circumstances of this case, this Court is of the opinion that the proceeding of the Court below should be quashed to secure the ends of justice.

8. In view of the above-mentioned facts and circumstances of the case, the petition is allowed and the proceeding G.R.Case No. 44 of 2004 is quashed. The L.C.R. be sent back forthwith.