

(1985) 09 OHC CK 0028

In the Orissa High Court

Case No : Criminal Miscellaneous Case No. 818 of 1984

Rama Swain

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 09-09-1985

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Orissa Timber and Other Forest Produce Transit Rules, 1980 — Rule 21
Penal Code, 1860 (IPC) — Section 34, 427

Citation : (1986) 1 OLR 185

Hon'ble Judges : G.B. Pattnaik, J

Bench : Single Bench

Advocate : Deepak Misra, for Devanand Misra, for the Appellant; Jairaj Behera, A.S.C., for the Respondent

Final Decision : Allowed

Judgement

G.B. Pattnaik, J.—This is an application by one of the accused persons in Sessions Trial No. 4/170 of 1985/1983 pending in the Court of the Assistant Sessions Judge, Nayagarh, praying to quash the charges framed against him by invoking the inherent jurisdiction of this Court.

2. According to the prosecution case while certain illicit timbers were being, transported in a truck, the truck was checked, but before the truck stopped, the petitioner jumped from the truck and an away. After completion of investigation, police submitted charge-sheet against the petitioner along with one Brundaban Naik. The learned Magistrate also discussed the materials against the petitioner to the effect that he jumped from the truck when the truck was stopped for checking and thereafter he has framed charges against the petitioner under Sections 307/34 and 427/34, Indian Penal Code and Rule 21 of the Orissa Timber Transit Rules.

3. Though a revision was carried to the learned Sessions Judge against the framing of charges, yet the same was dismissed, as the learned Sessions Judge

came to the conclusion :

"... From a perusal of the materials on record, it is seen that there is a prima facie case against the accused persons under the charges so framed against them. . ."

There is no discussion by the learned Sessions Judge as to what were the materials against the petitioner on the basis of which he could come to the aforesaid conclusion.

4. The learned Additional Standing Counsel appearing for the State fairly concedes that if the only material against the petitioner is to the effect that he jumped out of the truck when the truck was checked and ran away, then an offence either u/s 302 or u/s 307, Indian Penal Code, or under Rule 21 of the Orissa Timber Transition Rules cannot be said to have been established against the petitioner. He is also not in a position to submit that there is any further material against the petitioner after perusal of the case diary. In that view of the matter, the conclusion is inescapable that the materials against the petitioner taken in entirety do not make out the offences for which charges have been levelled against him. Accordingly, I quash the charges so far as the petitioner is concerned in the aforesaid Sessions Trial, but would make it clear that if, however, in course of the trial, evidence and materials come in against the petitioner as to commission of any offence by him, then it would be open for the learned Trial Judge to proceed against the petitioner also.

5. The Criminal Miscellaneous Case is accordingly allowed.