

(2024) 05 OHC CK 0013
In the Orissa High Court
Case No : CRLMC No.3954 Of 2022

Santosh Mohanty

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 01-05-2024

Acts Referred:

Indian Penal Code, 1860 — Section 34, 323, 364A

Citation : (2024) 05 OHC CK 0013

Hon'ble Judges : S.S. Mishra, J

Bench : Single Bench

Advocate : Biplab Kumar Dash, B.K.Ragada, Pradeep Kumar Parida

Final Decision : Disposed Of

Judgement

S.S. Mishra, J

1. At the instance of the opposite party no.2, the F.I.R. in Markatnagar P.S. Case No.228 of 2021 for the offences under Sections-323/364-A/34 IPC came to be registered against the petitioners.

2. The allegation made in the F.I.R. is that on 14.11.2021 at about 7 P.M., when the son of the informant had gone to the market, five persons came in a white colour four wheeler at Satichoura Chhak Petrol pump and attacked her son Manoj Rout and Jitu. Both of them were beaten up mercilessly. The accused persons were also carrying weapons. The informant further alleged that there was a threat to life of her son, so filed the F.I.R.

3. After the investigation, the charge sheet has been filed in the present case on 05.01.2022 and cognizance of the offences under Sections-323/364-A/34 IPC was taken by the Court below on 08.02.2022.

4. When the matter stood thus, the petitioners have entered into a settlement with the informant and the victim.

5. The petitioners and the opposite party no.2 are present in the Court today

being represented by their respective counsels being identified by them. The victim Manoj Kumar Rout, who is not impleaded in the present proceeding, is also present in the Court today. They have filed the photocopies of their respective self-attested Aadhaar Cards to establish their identity, which are taken on record.

6. The opposite party no.2 and the victim Manoj Kumar Rout have filed separate affidavits before this Court on 25.04.2024, inter alia, stating that they have settled their dispute with the petitioners. Due to misunderstanding, the case was filed against the petitioners and now they do not want to proceed against the petitioners.

7. Mr. Ragada, learned Addl. Government Advocate appearing for the opposite party no.1-State submits that since the parties have settled their dispute and filed affidavits before this Court, there is no point subjecting the petitioners to trial in the present case.

8. Taking into consideration the ratio laid down by the Hon'ble Supreme Court in the cases of Gian Singh vs. State of Punjab and another reported in (2012) 10 SCC 303 and B.S. Joshi & others vs. State of Haryana & another reported in (2003) 4 SCC 675, I am of the considered view that subjecting the petitioners to trial will be a futile exercise. Therefore, the petition deserves merit.

9. Accordingly, the F.I.R. in Markatnagar P.S. Case No.228 of 2021 pending in the Court of the learned S.D.J.M, Sadar, Cuttack and the consequential proceedings arising therefrom qua the petitioners is quashed. This order is subject to the petitioner paying Rs.1,000/- (Rupees one thousand) to be deposited before the Orissa High Court Advocates' Welfare Fund.

10. The CRLMC is accordingly disposed of.

.....