

(2003) 03 OHC CK 0099

In the Orissa High Court

Case No : Criminal Miscellaneous Case No. 521 of 2002

Sk. Edrish @ Sk. Edrish

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 12-03-2003

Acts Referred:

Penal Code, 1860 (IPC) — Section 307

Citation : (2003) 24 OCR 828

Hon'ble Judges : A.S. Naidu, J

Bench : Single Bench

Advocate : Sangam Kumar Sahoo, for the Appellant; Satyabrata Pradhan, A.S.C., for the Respondent

Judgement

A.S. Naidu, J.—Heard Learned Counsel for the Petitioner and the learned State Counsel. Perused the materials available on record.

2. The order dated 15.1.2002 taking cognizance against the Petitioner by the S.D.J.M., Kendrapara is impugned in this case. Careful perusal of the F.I.R. reveals that though other accused persons are specifically named, neither the Petitioner is named nor any overt act has been attributed to the Petitioner in the FIR. According to Mr. Sahoo, Learned Counsel for the Petitioner, as he had not taken any part in the offence as would be evident from the F.I.R., taking cognizance u/s 307 I.P.C., as far as Petitioner is concerned, is not justified. Mr. Sahoo also referred to the injury report which indicates only three simple injuries. On the other hand, Mr. Pradhan, Learned Counsel for the State submits that the F.I.R. is not an encyclopedia. In course of investigation there might be some material against the Petitioner so as to justify taking cognizance u/s 307 I.P.C.

3. After hearing Learned Counsel for the parties and perusing the materials available, I am not inclined to interfere with the order dated 15.1.2002 taking cognizance against the Petitioner at this stage. But then, the fact remains that though allegations have been attributed to all other accused persons named in

the F.I.R., the F.I.R. does not disclose the name of the Petitioner. That apart, all the offences alleged to have been committed by the Petitioner are bailable except the offence u/s 307 I.P.C.

4. In view of the peculiar facts and circumstances, while not interfering with the order of taking cognizance, I direct that if the Petitioner surrenders before the learned S.D.J.M., Kendrapara in G.R. Case No. 182 of 2001 and moves a petition for bail, the learned S.D.J.M. shall do well to release the Petitioner on bail on such terms and conditions.

5. With the observations aforesaid, the Criminal Misc. Case is disposed of.