
(2001) 03 OHC CK 0055

In the Orissa High Court

Case No : Criminal Miscellaneous Case No. 7603 of 2000

Umesh Ch. Mansingh and Others

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 13-03-2001

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 209, 482
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3, 4
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 —
Rule 7

Citation : (2001) 92 CLT 763

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

Bench : Single Bench

Advocate : A. Ch. Mohanty, G.N. Rout, J. Rout, B.M. Sarangi and S. Jena, for the Appellant; Aswini Kumar Mishra, for the Respondent

Judgement

1. This case is taken out of turn from the weekly admission list on being mentioned by learned counsel for the petitioners on the ground of urgency.

2. Heard.

3. This application u/s 482, Cr. P. C. is filed by the petitioners who are the accused persons in Kanas P. S. Case No. 7 of 2000. Petitioners pray to quash the investigation on the ground that a simple suicide has been given the colour of a homicidal death with alleged involvement of the present petitioners and in that respect the complainant/informant has concocted a story against the petitioners.

4: The complaint lodged by the informant goes to indicate that she belongs to Scheduled Caste and accused persons are higher caste Hindus. Her daughter fell in love with accused Umesh (petitioner No. 1) and when the marriage was four years old she was done to death by administering poison with use of force in which occurrence as alleged, all the accused petitioners not only actively participated but also by giving threat of assault and murder did not permit the

complainant and other witnesses to intervene and rescue the deceased. She alleged that after the marriage the deceased was illtreated and tortured for being belonging to a lower caste. She further alleged that not only her information to the police was not properly attended to by the concerned police officer but also her signature was obtained on a statement mentioning that her daughter committed suicide. She also alleged that whereabouts of the dead body was also not intimated to the informant. After she instituted the aforesaid complaint, as per the then prevalent practice, in the Court of Sessions Judge-cum-Special Judge, Puri, learned Special Judge forwarded the same for investigation in accordance with the provision u/s 156(3), Cr. P. C. and that is how the aforesaid P. S. case has been registered and the investigation is pending.

5. Learned counsel for the petitioners states that in view of the provision of law as interpreted by the Apex Court, the Court of Session is not eligible to directly entertain a complaint but to entertain a case if committed in accordance with the provision in Section 209, Cr. P. C. and therefore, forwarding of the said complaint u/s 156(3) Cr. P. C. by learned Special Judge is impermissible in the eye of law, so the investigation be quashed.

The aforesaid contention does not inspire confidence inasmuch as the procedure followed at best amounts to a procedural irregularity which does not vitiate the investigation when there is allegation of a gruesome crime of murder, allegedly committed against a helpless young woman.

6. Learned counsel for the petitioners further states that the F. I. R. In the U. D. G. R. case and the post-mortem report clearly makes out a case of suicide without any participation of the accused persons/petitioners and, therefore, investigation of the aforesaid P. S. case is detrimental to the interest of the petitioners and it should be quashed. The aforesaid contention also does not bear any merit in view of the explanations given by the complainant in her complaint about the manner in which her signature was obtained by the police on a piece of paper mentioning therein that her daughter committed suicide.

7. Contention advanced by the petitioners in support of their prayer to quash the F, I. R. and to stop the investigation is found to be devoid of merit. Accordingly the prayer is rejected and the Criminal Misc. case is dismissed.

8. After perusing the aforesaid papers, this Court finds that learned Special Judge should have asked the Crime Branch to investigate the case when there is direct allegation against the local authorities like the police and the doctor to have joined hands to protect the alleged accused persons/petitioners. Apart from that if an offence under Sections 3 of the Scheduled Castes and Scheduled Tribes _ (Prevention of Atrocities) Act, 1989 is made out then according to Rule 7 of the S. C. & S. T. (Prevention of Atrocities) Rules, 1995 an officer not below the rank of Deputy Superintendent of Police, duly appointed by the State Government shall conduct the investigation. Since this Court is in seisin of. the matter, this Court directs the State Government to appoint an efficient and competent Police

Officer not below such rank working in the Crime Branch to investigate the case and to submit final form in the court of S.D.J.M., Puri. It be intimated to him that at the time of investigation such Investigating Officer shall also investigate to her allegations against the police officers and the other officers and if necessary he shall proceed with the investigation against such officers as well keeping in view the spirit of law in Sections 3 and 4 of the Act, 1989.

9. A copy of this order be handed over to learned Standing Counsel, who shall transmit it to the Home Secretary, Government of Orissa, for immediate action and the investigation by such designated officer be directed to be commenced soon thereafter. The Police Officer who is presently in charge of the investigation shall immediately hand over the charge of investigation to such designated officer.

10. At this stage, learned counsel for the petitioners states that all the four petitioners shall surrender and apply for bail in the Court of S.D.J.M., Puri by 20-3-2001 and direction be issued to the courts below to consider their bail application in course of the day.

11. Considering the aforesaid submission, it is directed that if the petitioners shall surrender and apply for bail in the Court of S.D.J.M., Puri by 20-3-2001. then learned S.D.J.M., Puri may do well to hear and dispose of that bail application, as far as practicable, in course of the day but after perusal of the up-to-date Case Diary and other relevant documents. in the event of rejection of that application, if application for bail shall be moved in the Court of Sessions Judge, Puri, then that Court may do well to hear and dispose of that bail application in accordance with law, as far as practicable, expeditiously but after perusal of the L. C. R. and the Case Diary.

12. Ordered accordingly.