

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.491 of 2022

Jeevanjyoti Mohanty and Others Petitioners
Mr. Binayak Prasad Mohanty, Advocate

-Versus-

State of Odisha Opposite Party
Mr. Pradip Kumar Rout, AGA

CORAM:
JUSTICE R.K. PATTANAIK

DATE OF JUDGMENT:06.04.2023

1. The petitioners have approached this Court by invoking its inherent jurisdiction under Section 482 Cr.P.C. for quashing of the criminal proceeding in connection with G.R. Case No.1797 of 2017 pending in the file of learned J.M.F.C.(O), Cuttack corresponding to Malgodown P.S. Case No.212 dated 21st September, 2017 on the grounds stated therein.
2. An FIR was lodged with regard to an incident dated 21st September, 2017 at about 2.30 PM during and in course of which students of Madhusudan Law College came to the main road in a protest demanding suspension of their Principal. It is alleged in the report that the named accused persons and others obstructed the road in front of the college and staged an agitation and despite repeated requests of the police on duty, they shouted slogan against the Principal and Administrator of the college and used slang language and committed overt acts for which the traffic was paralyzed and there was a chaotic situation at the spot due to

such mischief of the students and in that connection, Malgodown P.S. Case No.212 of 2017 was registered under Sections 143, 353, 431, 294, 506 and 149 IPC against the petitioners and four others. The very filling of the chargesheet is under challenge by the petitioners on the ground that they have been falsely implicated.

3. Heard Mr. Mohanty, learned counsel for the petitioners and Mr. Rout, learned AGA for the State.

4. According to the petitioners, the incident had happened during and in connection with an election dispute for which the College Administration declared sine die and for that the protest was held and it was peaceful without causing damage to any property or causing harm to anyone but then, the local police registered the case against them. It is claimed that the College Administration did not register any complaint but without any proper investigation, the local police entangled the petitioners and lodged the FIR (Annexure-1). It is alleged that the petitioners have been unduly chargesheeted without proper evidence and despite the chargesheet being filed in the year 2019 almost after two years from the date of the incident, no charges have yet been framed against them and therefore, considering the fact that some of the petitioners are Advocates at present and others are having a bright future, the criminal proceeding pending before the court below should be brought to an end and terminated.

5. Mr. Rout, learned AGA for the State submits that due to the violent protest of the petitioners and others, there was a law and order situation near Madhusudan Law College and in so far as the petitioners are concerned, they participated in the said protest and stated to have committed the mischief and overt acts and hence, chargesheeted.

6. Gone through the chargesheet as at Annexure-2. The petitioners have been roped in for the alleged incident and in connection with the incident dated 21st September, 2017. Some of the named accused persons in the FIR (Annexure-1) said to have been left out and not chargesheeted along with the petitioners. The FIR was drawn by the S.I. of police for the alleged incident. Admittedly, neither the College Administration nor anyone from the public lodged any complaint with the local police vis-a-vis the incident. It was in connection with a protest in the college during the election time and as alleged by the informant, the protesters raised slogans against the Principal of the college and others and committed certain mischief and in the process, obstructed the public road and vehicular movement.

7. The principal ground upon which Mr. Mohanty, learned counsel for the petitioners challenged the criminal proceeding is that there has been no proper identification of the miscreants during investigation. In other words, no concrete evidence was collected during the investigation before the chargesheet was filed in order to properly identify the real culprits, who did the alleged mischief during the incident. It is submitted by Mr. Rout, the learned AGA that since the petitioners have been chargesheeted based on evidence received during the investigation, it cannot therefore be said that there has been no proper identification of the miscreants. It is pleaded that some of the petitioners have become lawyers in the meantime and others have passed out as law students and aspiring to join judiciary and one of them is also a disabled person and in so far as the then President of the college is concerned, who actually spearheaded the protest, has expired in the meantime. Considering the above facts and the fact that the petitioners are educated and having bright future and despite

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chargesheet being filed in 2019, the trial has not been commenced till date, for such inordinate delay in framing charge, learned counsel for the petitioners submits that in the best interest of justice, this Court in exercise of extraordinary jurisdiction should quash the criminal proceeding.

8. Learned counsel for the petitioners cited an order of this Court in the case of CRLMC No.2915 of 2013, wherein, the criminal proceeding pending before the learned S.D.J.M., Bhubaneswar in G.R. Case No.238 of 2010 corresponding to Mancheswar P.S. Case No.30 of 2010 was quashed. A copy of the said order is at Anneuxre-4. On a reading of the said order dated 30th January, 2014, it is made to appear that there was a compromise between the parties, such as, the students, who participated in the agitation and the Management of the college and under such circumstances, it was held that no useful purpose would be served to continue with the criminal proceeding. Such is not the situation in the case at hand. In the instant case, the chargesheet is filed in the year 2019 which was after two years from the date of occurrence and it is not disputed by the State that till date, the trial has not begun. The Court finds substantial delay in completion of investigation which consumed more than two years to complete. Further delay has occasioned even in the commencement of trial as the charges are not yet framed. At times, delay defeats justice equally for the victim and accused. No doubt, delay in commencement of trial cannot always be a ground to derail the prosecution. In the case at hand, the petitioners then students of a law college are alleged to be involved, some of whom are said to have joined the legal profession. Considering the nature of incident which originated from a college protest and since 2017, the Damocles sword is hanging over the petitioners, who await CRLMC No.491 of 2022

for the trial to commence which has still eluded them and in the meantime, precious five years have gone by, out of which, the investigation unreasonably consumed more than two years just to round off the culprits, the Court, in the peculiar facts and circumstances of the case, is of the humble view that the criminal action, which is pending for the last six years and before court below since 2019 without any real progress, should be terminated in the interest of justice. Such delay though may not be claimed unusual under normal circumstances but when pitted against the lives and career of the petitioners who are having high hopes and aspiration to grow and prosper, it is quite considerable and they cannot be allowed to face a life of uncertainty. Any further delay, as according to the Court, could result in persecution and hence, it is a fit case to bring an end to the proceeding so as to advance the cause of justice.

9. Accordingly, it is ordered.

10. In the result, the CRLMC stands allowed. As a necessary corollary, the criminal proceeding in connection with G.R. Case No.1797 of 2017 pending in the file of learned J.M.F.C.(O), Cuttack corresponding to Malgodown P.S. Case No.212 dated 21st September, 2017 is hereby quashed vis-à-vis the petitioners.

(R.K. Pattanaik)
Judge

Uksahoo