

Sunil Sahu @ Sunil Kumar Sahu Vs. State of Orissa

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Court : Orissa

Decided On : Oct-31-2007

Reported in : 104(2007)CLT820

Judge : I. Mahanty, J.

Appellant : Sunil Sahu @ Sunil Kumar Sahu

Respondent : State of Orissa

Judgement :

ORDER

I. Mahanty, J.

1. Heard Learned Counsel for the Petitioner and Learned Counsel for the State.
2. The informant (wife of the Petitioner) has filed an F.I.R. on 26.8.2007 against the Petitioner, which was registered as Betnoti P.S. Case No. 121 of 2007 under Section 498A and 506 read with Section 34 of I.P.C. and Sections 3 and 4 of D.P. Act. The Petitioner was apprehended and produced before the lower Court on 20.9.2007 and the said Court rejected the bail application of the Petitioner.
3. Being aggrieved by the said order of rejection of bail, the Petitioner moved a Bail Application No. 146/627 of 2007 in the Court of Addl. Sessions Judge, Baripada. The Learned Sessions Judge, Baripada by order No. 2 dated 4.10.2007

has rejected the prayer for bail of the present Petitioner and hence the present application.

4. Case of the informant is that she was married to the Petitioner on 24th day of Baisakha 2006 according to the Hindu rites. At the time of marriage, cash of Rs. 20,000/- and other household articles were given by her parents. It is alleged that one month after the marriage, the present Petitioner, his brother and mother started subjecting the informant to cruelty by demanding her to bring more dowry from her father and also gave her physical and mental torture. It is further alleged that on 17.8.2007, the Petitioner, his mother and brother expressed their desire to kill her by pouring Kerosene on her.

5. Learned Counsel for the Petitioner submits that the aforesaid statement of attempt to kill the informant is not supported by the statement of the informant in her statement under Section 161 Cr.P.C. In fact, Learned Counsel submits that on reading of the statement under Section 161 Cr.P.C. as a whole, it would indicate that the FIR as been lodged by the informant solely on the basis of an apprehension that the present Petitioner would be leaving her. Apart from this, Learned Counsel for the Petitioner further submits that in her statement under Section 161 Cr.P.C. She does not state anything about the alleged desire of the present Petitioner, his mother and brother to kill her by setting fire pouring Kerosene on her.

6. On a query, Learned Counsellor the State submits that this part of the allegation as contained in the FIR does not find place in the statement of the informant under Section 161 Cr.P.C.

7. On a further query to the Learned Counsel for the State as to whether there exists any medical evidence regarding the alleged torture both physically and mentally and also about the alleged attempt of pouring Kerosene on the informant, the Learned Counsel for State answered in the negative. Regarding the allegation of pouring Kerosene to the informant, the Learned Counsel for the State further submits that there is no material evidence on record apart from the allegation in the FIR. Learned Counsel for State fairly submits that the aforesaid allegation of physical and mental torture is also not supported by the statements made by the

informant and other witnesses under Section 161 Cr.P.C.

8. Considering the aforesaid facts and circumstances of the case and the fact that the Petitioner is in jail Custody since 20.9.2007, I direct the Petitioner to be released on bail on executing a bond for Rs.10,000/-(rupees ten thousand) with two local sureties each for the like amount to the satisfaction of the Learned S.D.J.M., Baripada in G.R Case No. 922 of 2007 with the condition that he shall not threaten or coerce the witnesses; shall not indulge in any criminal activity; shall appear in the Court on each date to which the case stands posted for trial; shall cooperate with the investigation and shall appear at the local police station every fortnight, preferably on a Sunday at 11.00 A.M.

9. Violation of any of the conditions shall entail cancellation of bail.

10. The BLAPL is accordingly disposed of.

11. Urgent certified copy of this order be granted on proper application.

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