

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2926 of 2014

Subodh Kumar Sahoo and others *Petitioners*
versus-
State of Orissa and another *Opposite Parties*

CORAM: JUSTICE S. PUJAHARI

ORDER
20.06.2022

Order
No.

- 04.
1. This matter is taken up through hybrid mode.
 2. This application under Section 482 of Cr.P.C. has been filed by the Petitioners to quash the order of charge dated 30th March, 2010 framed against them in I.C.C. No.65 of 2009, pending in the Court of S.D.J.M., Hindol.
 3. Heard learned counsel for the Petitioners, the learned counsel for the State-Opposite Party No.1.
 4. It appears that notice was issued to Opposite Party No.2-Complainant by registered post with A.D. but the A.D. having not been returned, notice to Opposite Party No.2-Complainant be treated as sufficient in view of the provisions contained in Section 27 of the General Clauses Act.
 5. It also appears that the aforesaid case arises out of a marital discord between the Petitioner No.1 and Opposite Party No.2. The other Petitioners are in-laws. The Petitioner No.1 is the husband of the Opposite Party No.2-Complainant is the wife.

6. Petitioners have sought for quashment of the order of charge on the ground that the matter has been amicably settled between the parties in a proceeding under Section 125 of Cr.P.C., i.e., Crl. Misc. No.20/2011-181 of 2013, which was subsequently transferred to the court of Judge, Family Court, Dhenkanal vide F.C. Case No.181 of 2013, where inter alia the term has been mentioned that the criminal cases are filed by the Opposite Party No.2-wife against the Petitioners shall also be withdrawn.

7. It is submitted by the learned counsel for the Petitioner that since no one appears on behalf of the Opposite Party No.2-wife in view of the compromise in the aforesaid proceeding, so also Opposite Party No.2-wife in the meanwhile has married elsewhere, this Court should quash the aforesaid proceeding, as no useful purpose is going to be served to continue with the same inasmuch as hereinafter there being bleak chance of conviction, submits the learned counsel for the Petitioner.

8. Term of the compromise is there in the proceeding under Section 125 of Cr.P.C. for withdrawal of criminal cases filed by the Opposite Party No.2-wife. Some of the offences are non-compoundable in nature. But non-compoundability of an offence does not stand on the way of the Court for quashment of the proceeding in appropriate cases in exercise of the power under Section 482 Cr.P.C particularly in view of the compromise as held by the apex Court in the case of **Narinder Singh and others vrs. State of Punjab and another**, reported in (2014) 6 SCC 466, so also in the similar facts and circumstances when the wife did not appear, the apex Court in the case of **Ruchi Agarwal vrs. Amit Kumar Agrawal and others** reported in (2005) 3 SCC 299 have quashed the criminal proceeding.

9. In view of the aforesaid authoritative pronouncement of the apex Court, even if the wife had not appeared, this Court is of the view that allowing the criminal prosecution hereinafter against the Petitioners in the aforesaid factual backdrop would be an abuse of the process of the Court. Accordingly, this Court, in exercise of the power of this Court under Section 482 of Cr.P.C, quashes the criminal prosecution initiated against the Petitioners at the instance of the Opposite Party No.2-wife in I.C.C. No.65 of 2009 pending in the court of S.D.J.M., Hindol. The court in seisin over the matter shall do well to close the proceeding on production of the certified copy of this order.

10. With the aforesaid order, this Criminal Misc. Case stands disposed of being allowed.

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

(S. Pujahari)
Judge

DA