

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.5985 of 2014

Hari Pradhan

Petitioner

Mr. R.N. Mishra. Advocate

-Versus-

State of Odisha and others

.... Opposite Parties

Mr. A.P.Das, ASC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
24.06.2022

Order
No.

- 03.
1. Heard learned counsel for the petitioner and learned counsel for the opposite party No.1 State. None appears for opposite party No.2 despite valid service of notice which is borne out of the record.
 2. This is an application under Section 482 Cr.P.C. for quashing of FIR as well as the criminal proceeding in C.T. Case No.528 of 2011 arising out of Gurudijhatia P.S. Case No.126 of 2011 and subsequent proceeding in S.T. Case No.494 of 2013 pending in the file of learned Asst. Sessions Judge, Athagarh on the grounds inter alia that after the alleged incident he and O.P.No.3 have married and both are leading a peaceful marital life.
 3. It is revealed from the record that O.P.No.2 lodged the FIR alleging kidnapping of O.P.No.3, who is his daughter on 27th September, 2011 at about 3 P.M. as by then she was a student of class-X and further stated that when he enquired about her from the father

of the petitioner was even abused and threatened and then FIR was lodged with a delay of 24 days for the reasons assigned. Consequent upon lodging of FIR, Gurudijhatia P.S. Case No.126(7) dated 20th October, 2011 was registered under Sections 366, 294, 506 read with 34 IPC and thereafter, the charge sheet was filed ultimately leading to the initiation of the criminal proceeding now pending in S.T. No.494 of 2013 before the court of learned Assistant Sessions Judge, Athagarh.

4. It is contended that the petitioner and O.P.No.3 subsequently married in the year 2014 in support of which an affidavit is at Annexure-3. On a perusal of the aforesaid affidavit, it is made to reveal that both the parties got married after O.P.No.3 attained majority. The circumstances under which the FIR was lodged after the alleged incident of the year 2011 have also been described in the said affidavit. It appears that although the incident is of the year 2011 but then, nearly three years later, petitioner and O.P.No.3 married each other and according to the affidavit i.e. Annexure-3 both are leading a peaceful and happy conjugal life without any disturbance.

5. Mr. Das, learned ASC submits that at the time of incident though the victim, namely, O.P.No.3 was a minor but then, as on the date of marriage which is stated to have been solemnized on 12th July, 2012 so revealed from Annexure-3, she had become a major. The fact of marriage is supported by the affidavit which is not disputed by the learned ASC. The incident is of the year 2011 which is more than ten years by now and the marriage between the parties said to have taken place in 2014 and at this distant point of time, the Court is of the considered view that no worthy purpose would be served allowing continuance of the criminal proceeding before the court below notwithstanding fact that FIR alleged kidnapping when O.P.No.3 was a minor.

6. Being conscious of position of law as decided in catena of cases by the Supreme Court and more recently in **B.S. Joshi and others Vrs. State of Haryana and another** reported in (2003) 4 SCC 675 where it has been held and observed that in cases of present kind specially where the dispute is of civil of nature or matrimonial, inherent jurisdiction under Section 482 Cr.P.C. may be exercised, which of course depends on the facts and circumstances of each particular case. Having regard to the above facts and position of law and taking into account the marriage between petitioner and O.P.No.3 which is, prima facie, proved from Annexure-3, as their marriage having been solemnized in the year 2014 with the contention that both are leading a peaceful marital life, the Court is inclined to exercise the power under Section 482 Cr.P.C. to quash the proceeding and accordingly, it is ordered.

7. In the result, CRLMC stands allowed. Consequently, the FIR and criminal proceeding in C.T. Case No.528 of 2011 arising out of Gurudijhatia P.S. Case No.126 of 2011 and subsequent proceeding in S.T. Case No.494 of 2013 pending in the file of learned Assistant Sessions Judge, Athagarh is hereby quashed.

(R.K. Pattanaik)
Judge