

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.512 of 2011

Amit Sharma and another **Petitioners**

Mr. Bijaya Ku. Ragada, Advocate

-Versus-

State of Odisha and another **Opposite Parties**

Mr. S. S. Mohapatra, ASC

**CORAM:
MR. JUSTICE R.K. PATTANAIK**

**ORDER
22.04.2022**

**Order
No.**

06. 1. Heard learned counsel for the petitioners and learned counsel for the State.
2. Present application under 482 Cr.P.C. is filed by the petitioners for quashing of the order of cognizance dated 1st July, 2010 passed in C.T. Case No.2107 of 2008 registered under Section(s) 498-A and 323 read with 34 IPC and Section 4 of the Dowry Prohibition Act pending in the file of learned S.D.J.M., Sambalpur.
3. Mr. B.K. Ragada, learned counsel for the petitioners submits that there has been a settlement arrived at between the parties, namely, petitioner No.1 and opposite party No.2 as both have obtained a decree of mutual divorce under Section 13(B) of the Hindu Marriage Act by approaching the Family Court, Cuttack in Civil Proceeding No.1089 of 2009. While contending so, Mr. Ragada has referred to Annexure-5 which is the order passed in C.P.

No.1089 of 2009 whereby marriage between the parties has been dissolved on mutual consent.

4. In fact, on the last occasion, the petitioners directed to file postal requisites for issuance of notice to opposite party No.2 through registered post with AD. However, Mr. Ragada, learned counsel for the petitioners states that whereabouts of opposite party No.2 is not known as she is no more residing in the address mentioned. It is submitted that opposite party No.2 after marriage has shifted to some other State and therefore, her address is not available or able to be procured. It is lastly submitted that in view of the order of the Family Court in C.P. No.1089 of 2009 and dissolution of marriage which was solemnized on 1st July, 2007 between petitioner No.1 and opposite party No.2 which was on consent in terms of Section 13(B) of the Hindu Marriage Act, no purpose would be served to have the proceeding continued before the court below and therefore, the order of cognizance under Annexure-1 should be set aside and proceeding in C.T. No.2107 of 2008 quashed.

5. On consideration of the fact that the parties have had mutual divorce in the year 2010 which is supported by a copy of the order of Family Court dated 18th May, 2010 in C.P. No.1089 of 2009 which clearly states that the marriage between them was dissolved by decree of divorce on mutual consent and recording the submission of Mr. Ragada, learned counsel for the petitioners that opposite party No.2 has remarried and shifted her residence to some other place out of State, the Court is of the considered view that in the above facts and circumstances of the case, no purpose would really be served by keeping the proceeding pending before the court of learned S.D.J.M., Sambalpur.

6. For the reasons as aforesaid, the application filed under Section 482 Cr.P.C. stands allowed and the order of cognizance dated 1st July, 2010 passed in C.T. Case No.2107 of 2008 vide Annexure-1 and also proceeding pending before the court below is hereby quashed.

7. The CRLMC is disposed of accordingly.

(R.K. Pattanaik)
Judge

