

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.810 of 2012

Ajay Kumar Guha & Others

.... Petitioners

Mr. A.K.Behera, Advocate

-Versus-

State of Odisha and another

.... Opposite Parties

Mr. P.K.Mohanty, ASC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
20.05.2022

Order No.

- 06.
1. Heard learned counsel for the petitioners and the learned counsel for the State.
 2. This is an application under Section 482 of Cr.P.C. filed by the petitioners for quashing of criminal proceeding in C.T. Case No. 238 of 2009 arising out of Balasore Town P.S. Case No. 72 of 2009 pending in the file of learned SDJM, Balasore on the ground that the matter has been settled between petitioner No.1 and opposite party No.2 by way of a decree of divorce on mutual consent and hence, the relief.
 3. An F.I.R. was lodged in the year 2009 by opposite party No.2 making allegations against the petitioners of matrimonial torture, whereupon, Balasore Town P.S. Case No. 72 (8) of 2009 was registered for offences under Section(s) 498-A/509/354/506/34 IPC, which at last ended in the filing of charge sheet.

4. It is contended by the learned counsel for the petitioners that on account of the mutual divorce between petitioner No.1 and opposite party No.2, she is not taking any interest and not responding as well despite notice sent by this Court and in view of the fact that there has been a mutual divorce and decree obtained from the court of Civil Judge (SD), Balasore by order dated 12th December, 2009, the proceeding which is pending before the court below should be quashed.

5. On perusal of the record, it is revealed that notice was issued to opposite party No.2 by order dated 3rd April, 2012 and but, it returned back with A.D. carrying an endorsement-‘refusal by the addressee’. In view of the above, the service as against the opposite party No.2 has to be held as sufficient since the A.D. returned back with such an endorsement.

6. Learned counsel for the petitioners made the Court to go through the order dated 12th December, 2019 (Annexure-2) passed by the Civil Judge (SD), Balasore. From (Annexure-2), it appears that the parties, namely, petitioner No.1 and opposite party No.2 filed a petition under Section 13(B) of Hindu Marriage Act, 1954 seeking mutual divorce, considering which, the court concerned granted the relief.

7. It is apprised to the Court by the learned counsel for the petitioners that opposite party No.2 has married once again and staying with her in-laws and considering the fact that there has been mutual divorce between her and petitioner No.1, proceeding which is pending before the learned court below should be brought to an end.

8. As held by the Supreme Court in the case of ***B. S. Joshi & Others Vs. State of Haryana & Another*** reported in (2003) 4 SCC 675,

where there is a settlement between the parties in a civil dispute, in order to restore peace and amity between them, criminal proceedings pending at their instance may be quashed in exercise of inherent jurisdiction Section 482 of Cr.P.C. even when the offences are non-compoundable in nature.

9. Considering the above facts, settled position of law and submissions of the learned counsel for the parties besides the fact that the parties are no more living together, rather, they have obtained a mutual divorce approaching the court of Civil Judge (Senior Division) as is revealed from the Annexure-2, the Court is inclined to quash the proceeding in C.T. Case No. 238 of 2009 and accordingly, it is ordered.

10. In the result, the CRLMC stands allowed. As a consequence thereof, the proceeding in C.T. Case No. 238 of 2009 pending in the court of learned SDJM, Balasore is hereby quashed.

(R.K. Pattanaik)
Judge