

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.5982 of 2014

Kabula @ Sukanta Barik and others

Petitioners

Mr. H.N. Mohapatra. Advocate

-Versus-

State of Odisha and another

....

Opposite Parties

Mr. A.P.Das, ASC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
24.06.2022

Order
No.

04. 1. Heard learned counsel for the petitioners and learned counsel for the opposite party No.1 State. Notice was issued to opposite party No.2, namely, the informant which has been served upon him as is borne out of the record. In fact, the AD returned after valid service of notice vis-à-vis O.P.No.2.
2. This is an application under Section 482 Cr.P.C. for quashing of criminal proceeding in C.T. Case No.35 of 2014 arising out of Tigriria P.S. Case No.36 of 2014 lying in the file learned J.M.F.C., Tigriria on the ground that the petitioners have married as per the Hindu customs and had also a civil marriage which is proved by Annexure-3 and therefore, the allegation of kidnapping as made out in the FIR is false and for that, the proceeding in C.T. Case No.35 of 2014 should be quashed in the interest of justice.

3. Mr. Das, learned counsel for the State O.P.No.1 submits that indeed there has been a civil marriage between the parties, inasmuch as, Certificate of Marriage is at Annexure-3 and also apprised the Court regarding statement of the victim revealing that she is inclined to stay in with petitioner No.1. In fact, as per her statement under Section 164 Cr.P.C. opposite party No.2 expressed her willingness to stay with her husband, namely, petitioner No.1.

4. In view of the above statement of petitioner No.2 and considering Annexure-2 which is stated to be with regard to marriage held in temple, in support of which, said receipt has been produced and the fact that subsequently there has been a civil marriage between both as per Annexure-3, the Court is of the view that no real purpose would be served to have the criminal proceeding alive in the file of learned court below. Rather, from the Annexure-3 it is clearly made out that a marriage between them has taken place on 22nd April, 2014. It is submitted by the learned counsel for the petitioners that both the parties are presently living together and leading a peaceful conjugal life.

5. Being conscious of the settled position of law as laid down by the Supreme Court in plethora of decisions and in particular, in **B.S. Joshi and others Vrs. State of Haryana and another** reported in (2003) 4 SCC 675, the Court is of the humble opinion that taking into account the marriage between the petitioners having and proof of such marriage as per Annexure-3 which has taken place before the Marriage Officer as per the provisions of the Special Marriage Act, the Court is inclined to quash the criminal proceeding in the interest of justice and accordingly, it is ordered.

6. In the result, CRLMC stands allowed. Consequently, the criminal proceeding in C.T. Case No.35 of 2014 arising out of Tigriria P.S. Case No.36 of 2014 pending in the file learned J.M.F.C., Tigriria is hereby quashed.

(R.K. Pattanaik)
Judge

TUDU

