

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1486 of 2013

Vikash Kumar Agrawal & others. ***Petitioners***

-versus-

State of Odisha & another. ***Opposite Parties***

**CORAM:
JUSTICE S. PUJAHARI**

**ORDER
11.04.2022**

**Order
No.**

10. 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 entire criminal prosecution launched against them vide G.R. Case No.105 of 2007, arising out of Phulbani Town P.S. Case No.43 of 2007 for alleged commission of offences punishable under Sections 498-A, 406/34 of IPC and Sections 4 and 6(A) of the D.P. Act, pending in the Court of the learned S.D.J.M., Phulbani.
2. Heard the learned counsel for the petitioner and the learned counsel for the State. None appears for the opposite party No.2. Perused the materials available on record.

3. It appears that the aforesaid case arises out of a matrimonial discord between the petitioners and opposite party no.2. The petitioner no.1 is the husband of the opposite party no.2-informant. An agreement has been entered into between the petitioner no.1 and the opposite party no.2 that opposite party no.2 and the petitioner no.1 both have agreed to part each other untying their nuptial knot and accordingly they have filed a suit under Order-23, Rule-3 of CPC read with Section 13(B) of the Hindu Marriage Act before the learned Civil Judge (Sr. Division), Sonapur for dissolution of their marriage as the matter has been amicably settled between them. They further agreed in the said agreement that in view of the aforesaid mutual settlement between them, the opposite party no.2 has already received a sum of Rs.14,00,000/- from the petitioner no.1 as her permanent alimony and both of them want to settle all the disputes.

4. It is stated by the learned counsel for the petitioners that since both the petitioner no.1 and opposite party no.2 have already snapped their matrimonial relationship by way of settlement between them before the learned Civil Judge (Sr. Division), Sonapur and the opposite party no.2 has already received an amount of Rs.14,00,000/- from the petitioner no.1 as permanent alimony as per the direction of the learned Civil Judge (Sr. Division), Sonapur, the aforesaid proceeding may be quashed as no useful purpose is going to be served to continue with the same inasmuch as hereinafter there shall be bleak chance of conviction.

5. Learned counsel for the State, however, submits that in the absence of the victim, the contention of the learned counsel for the petitioners is devoid of merit.

6. It appears that in this case though the opposite party no.2- wife had agreed to settle all the disputes in the matrimonial proceeding, but thereafter she played hide and seek and not appearing in this case. In the case of ***Ruchi Agarwal vrs. Amit Kumar Agrawal and others***, reported in (2005) 3 SCC 299 and also in the case of ***Mohd. Shamim and others vrs. Nahid Begum (Smt.) and another***, reported in (2005) 3 SCC 302, wherein the case of ***Ruchi Agarwal*** has been followed, the Apex Court in a similar facts and situation have quashed the criminal proceeding. Therefore, this Court is of the view that hereinafter there shall be bleak chance of conviction in this case, so the continuance of the prosecution shall be an abuse of the process of the Court.

7. I would, therefore, allow this Criminal Misc. Case application and quash the entire criminal prosecution launched against the petitioners. The trial court shall do well to comply with this order on production of the certified copy of this order.

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

(***S.Pujahari***)
Judge

MRS