

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1665 of 2017

Laxmikant Tripathy and others

.... Petitioners
Mr. U.C. Mishra, Advocate

-Versus-

State of Odisha and Another

.... Opposite Parties
Mr. S.S. Mohapatra, ASC, OP No.1
None for OP No.2

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
16.12.2022

Order No.

- 06.
1. Heard learned counsel for the petitioners, learned counsel for the State-opposite party No.1. None appears for the opposite party No.2 despite valid service of notice.
 2. Instant petition under Section 482 Cr.P.C. at the behest of the petitioner for quashing of the criminal proceeding in connection with Bhubaneswar Mahila P.S. Case No.13 of 2014 corresponding to C.T. Case No.171 of 2014 pending in the file of learned S.D.J.M., Bhubaneswar on the ground of settlement of matrimonial dispute by mutual consent and separation between petitioner No.1 and opposite party No.2 in terms of the order of the learned Judge, Family Court, Bhubaneswar.
 3. Mr. Mishra, learned counsel for the petitioner submits that petitioner No.1 and opposite party No.2 had approached the learned Judge, Family Court, Bhubaneswar in C.P. Case No.568 of 2013 for mutual consent in terms of Section 13-B of the Hindu Marriage Act. While claiming so, a joint application as at Annexure-2 referred to by Mr. Mishra. He further submits that in view of the decree of divorce by order of the learned Judge, Family

Court, Bhubaneswar, a copy of which is at Annexure-3, no fruitful purpose would be served to keep the proceeding continue further, therefore it should be quashed in exercise of extra ordinary jurisdiction under Section 482 Cr.P.C. in the interest of justice.

4. Mr. S.S. Mohapatra, learned counsel for the State on the other hand submits that since opposite party No.2 has not entered appearance, it would not be proper to quash the criminal proceeding in C.T. Case No.171 of 2014 even though the learned court below has granted mutual separation between both the parties. The Court perused the Annexure-3 and the terms and conditions of the dispute inter se between petitioner No.1 and opposite party No.2 wherein it is observed that as per law, the parties have resolved all the litigations pending between them each other in different courts and police stations in view of the settlement arrived at between them.

5. Mr. Mishra, learned counsel for the petitioner submits that as per the settlement, petitioner had paid Rs.12,00,000/- (Rupees Twelve lac) to the opposite party No.2 towards permanent alimony in view of the decree of divorce between the parties. Annexure-4 is the order of the learned Family Court, Bhubaneswar in C.P. No.568 of 2013, which has been tagged with C.P. No.643 of 2013 filed by the opposite party No.2 and common order has been passed by the learned court below on 25th January, 2016 allowing the prayer of the parties.

6. Considering the above facts and submissions of the parties and in view of dissolution of marriage between petitioner No.1 and opposite party No.2 and as opposite party no.2 did not respond to the notice which is shown to have been delivered to her, it is a fit case where inherent jurisdiction shall be exercised to quash the criminal proceeding pending before the court below even though some of the offences are not compoundable in nature. The Court is of the view that the litigation between the parties has been closed in

view of the mutual divorce between the parties as arrived at between them in C.P. No.643 of 2013. Moreover, the Court is aware of the decision of the Apex Court in the case of **B.S. Joshi and others Vrs. State of Haryana & Another** reported in (2003) 4 SCC 675 which is with regard to exercise of inherent jurisdiction to quash the criminal proceeding. Accordingly the Court feels it proper that it is a fit case where the jurisdiction of the Court should be exercised to quash the proceeding.

7. Accordingly, it is ordered.

8. In the result, the CRLMC stands allowed.

9. Consequently, the criminal proceeding in Bhubaneswar Mahila P.S. Case No.13 of 2014 corresponding to C.T. Case No.171 of 2014 pending in the file of learned S.D.J.M., Bhubaneswar is hereby quashed.

10. Issue urgent certified copy of this order as per rules.

(R.K. Pattanaik)
Judge

U.K.Sahoo

