

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.402 of 2022

Dinesh Kumar Biswal and others ***Petitioners***

Mr. B.K. Ragada, Advocate

-versus-

State of Odisha and another ***Opposite Parties***

Miss S. Mishra, A.S.C.

Ms. T. Sinha, Advocate for O.P. No.2

CORAM:

JUSTICE B. P. ROUTRAY

ORDER
05.05.2022

Order No.

03.

1. Heard Mr. B.K. Ragada, learned counsel for the Petitioners, Miss S. Mishra, learned A.S.C. for the State-Opposite Party No.1 and Ms. T. Sinha, learned counsel for Opposite Party No.2.

2. The Petitioners have prayed for quashing of the criminal proceeding in C.T Case No.5953 of 2018 arising out of Badagada P.S Case No.178, dated 21.06.2018 for commission of offence under Sections 498-A/323/34 of the I.P.C and Section 4 of the Dowry Prohibition Act pending before the learned S.D.J.M., Bhubaneswar including the order of cognizance dated 29.06.2021.

3. The facts of the case are that, the marriage between Petitioner No.1 and Opposite Party No.2 solemnized on 11.05.2018 in Bhubaneswar in presence of family members and relatives of both the parties as per Hindu rites and customs. The Petitioner

Nos.2 and 3 are the parents-in law of Opposite Party No.2. Due to dispute and misunderstanding, the marital relationship between the parties was disturbed and the F.I.R. dated 21.06.2018 in Badagada P.S. Case No.178 of 2018 lodged by Opposite Party No.2 alleging demand of dowry with torture.

4. It is submitted on behalf of the Petitioners that in the meantime the matrimonial dispute between the parties have been settled out of Court and as there was no chance of reunion, Petitioner No.1 and Opposite Party No.2 agreed to dissolve their marriage and accordingly filed a petition for divorce on mutual consent before the learned Family Judge, Bhubaneswar in C.P. No. 1059 of 2019. It has been averred by the Petitioners that the case arose out of family dispute and the matter has been amicably settled between the parties. In supporting this contention, present Opposite Party No.2—informant has filed an affidavit on 04.05.2022 stating that she and the Petitioners have amicably settled the matter and that she does not want to continue with the criminal case anymore.

5. Learned counsel for the Opposite Party No.2 tendered his concession in the light of the affidavit sworn by Opposite Party No.2 and submitted that the parties have compromised their difference amicably out of Court and are living peacefully in their respective homes. Learned counsel for the Petitioners submits that in view of the compromise, as the informant is not interested to proceed with the case further, there would be very remote and bleak chance of conviction against the Petitioners.

6. In ***B.S Joshi v. State of Haryana, (2003) 4 SCC 675***, the Hon'ble Supreme Court have observed that in exercise of inherent power under Section 482 Cr.P.C, the High Court can quash the criminal proceedings in matrimonial disputes where the dispute is entirely private and the parties are willing to settle their disputes amicably.

7. Further, in the case of ***Gian Singh v. State of Punjab and another, (2012) 100 SCC 303***, the Hon'ble Apex Court while on examination of law laid down in the case of ***B.S Joshi***(supra) and other cases with regard to inherent power of High Court under Section 482 Cr.P.C have quashed the proceedings involving non-compoundable offences in view of the compromise arrived at between the parties. Also in the case of ***Jitendra Raghuvanshi and others v. Babita Raghuvanshi and another, (2013) 4 SCC 15***, the Hon'ble Supreme Court has held that the High Court in exercise of its inherent power can quash the criminal proceeding or F.I.R or complaint in appropriate cases in order to meet the ends of justice and Section 320, Cr.P.C does not limit or affect the powers of the High Court under Section 482 of the Code. It is further held that even if the offences are non-compoundable, if they relate to matrimonial disputes and the Court is satisfied that the parties have settled the same amicably and without any pressure, the complaint or criminal proceedings can be quashed for the purpose of securing the ends of justice. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in the court of law

and in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising its extraordinary jurisdiction.

8. When the facts are admitted in the instant case that the parties have settled their dispute and that they have filed an application for dissolving their marriage on mutual consent and the wife- Opposite Party No.2 has filed compromise affidavit, no purpose is seen for further continuance of the criminal proceeding. As such, the criminal proceeding in C.T Case No.5953 of 2018 arising out of Badagada P.S Case No.178, dated 21.06.2018 including the cognizance order dated 29.06.2021 is quashed.

9. Accordingly, the CRLMC is disposed of as allowed.

10. An urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge