

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2206 of 2015

Prema@Premalata Nayak

....

Petitioner

Mr. Samvit Mohanty, Advocate

-Versus-

State of Odisha & Others

....

Opposite Parties

Mr. Manoranjan Mishra, ASC

CORAM:
MR. JUSTICE R.K. PATTANAIK

ORDER
29.07.2022

Order No.

- 05.
1. Heard learned counsel for the petitioner and learned ASC for the State. None appears for opposite party No. 2.
 2. Instant petition under Section 482 of Cr.P.C. is filed by the petitioner for setting aside the order of cognizance dated 27th October, 2014 passed in G.R. Case No. 702 of 2013 arising out of Naugaon P.S. Case No.43 of 2013 pending in the court of learned S.D.J.M., Jagatsinghpur on the grounds stated therein.
 3. Learned counsel Mr. Mohanty submits that the accused husband, namely, Dinabandhu Nayak @ Babuli @ Babu faced trial before the court of Sessions Judge, Jagatsinghpur in C.T. Case No. 226 of 2014 and was ultimately acquitted of the charges, whereas, common allegation has been made against the petitioner, who happens to be the mother-in-law of the victim as is revealed from the F.I.R. which was lodged by opposite party No.2 consequent upon Naugaon P.S.

Case No.43(7) of 2013 dated 28th July, 2013 was registered under Section(s) 498-A/302/34 IPC. It is further submitted that the petitioner is required to face trial in split up case but in view of the fact that the son in-law of the informant since acquitted after a full-fledged trial in C.T. Case No. 226 of 2014 and having regard to the nature of evidence especially that of the opposite party No.2 which is at Annexure-2 series, no real purpose would be served to allow the criminal proceeding to continue against her and therefore, it should be quashed in exercise of the inherent jurisdiction of this Court. While contending so, learned counsel Mr. Mohanty placed reliance on the following decisions, namely, **CBI Vrs. Akhilesh Singh :AIR 2005 SC 268; Upendra Sahoo Vrs. State of Orissa :2006 (II)OLR 301; Santosh Kumar Maltys Vrs. State of Orissa :2006(II) OLR 308; and Aditya Kumar Rath Vrs. State of Orissa :(2008) 41 OCR 233** and urged that continuation of the criminal proceeding before the court below as against the petitioner in juxtaposition to the evidence already received by the Court in a C.T. Case No. 226 of 2014 would really be an abuse of process of law and therefore, the criminal proceeding should be quashed.

4. Learned Standing Counsel for the State submits that the learned court below considering the materials on record has taken cognizance of offences against the petitioner as well and therefore, she is required to face the trial in split up the case notwithstanding the acquittal of the other accused, namely, husband of the victim in C.T. Case No. 226 of 2014.

5. The Court perused the evidence of opposite party No.2, who is the informant which is at Annexure-4 series. In fact, on a bare reading of the evidence of opposite party No.2, It is made to realize that he turned hostile for which the prosecution had to examine him

under Section 154 of the Evidence Act. Though, opposite party No.2 had admittedly lodged the F.I.R. but claimed that he did not know the contents of it and further described a different story altogether by claiming that the victim had been taken to hospital for treatment and at the relevant point of time, his son in-law was absent and was at Kolkata. In other words, the informant, who is the father of the victim did not support the prosecution case which appears to have prevailed upon the trial court in C.T. Case No. 226 of 2014 to hold that the accused husband is not guilty of the offences Section 498-A/302/34 IPC and thus, acquitted him of the charges.

6. In the decisions of **Aditya Kumar Rath**, **Upendra Sahoo**, **Santosh Kumar Maly** (supra), this Court had the occasion to hold that in case of an acquittal of an accused, no further purpose may be served to proceed against others, which would tantamount to abuse of process of law after considering the nature of evidence and result in the trial in which one of the accused persons was acquitted. In the case at hand, the Court having regard to the fact that the other accused shall have to go through a full-fledged trial where hostile evidence was brought on record is of the conclusion that no useful purpose would thereby be served and therefore, by exercising inherent jurisdiction, the proceeding should be terminated. In fact, in **Akhilesh Singh** (supra), the Supreme Court held that when the principal accused was discharged, the other accused should not be subjected to trial and consequently, quashed the criminal proceeding against him. Taking into account the above position of law and the fact that the petitioner is the mother in-law of the victim whose husband having already been acquitted in C.T. Cases No. 226 of 2014 and referring to the evidence of opposite party No.2 (Annexure-4 series), the Court is of the view that the proceeding

in G.R. Case No. 702 of 2013 arising out of Naugaon P.S. Case No.43 of 2013 should be quashed and accordingly, it is ordered.

7. In the result, CRLMC stands allowed. As a necessary corollary, the proceeding in G.R. Case No. 702(A) of 2013 arising out of Naugaon P.S. Case No.43 of 2013 pending in the file of learned S.D.J.M., Jagatsinghpur is hereby quashed.

(R.K. Pattanaik)
Judge



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