

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.450 of 2022

Chanchala Barai and Another

....

Petitioners

Ms. S. Das, Advocate

-Versus-

State of Odisha and Another

....

Opposite Parties

Mr. Tapas Kumar Praharaj, SC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

02.02.2023

Order
No.

01.

1. Heard learned counsel for the petitioners and learned counsel for the State opposite party No.1.
2. Prayer in the present case is for quashing of the impugned order dated 2nd January, 2023 under Annexure-4 passed in C.T. Case No.4320 of 2020 by the learned J.M.F.C.-III, Bhubaneswar whereby the request of the informant opposite party No.2 to file a better application/protest petition in respect of the grievance was allowed without any justification.
3. Copy of the protest petition originally filed is at Annexue-1. An objection filed against the said protest petition by the petitioners and a copy thereof is at Annexure-2.
4. Ms. Das, learned counsel for the petitioners submits that initially complaint was filed by the informant opposite party No.2 consequent upon which a case was registered vide Saheed Nagar P.S. Case No.428 of 2020 under Section 498-A IPC and other allied

offences besides Section 4 of the Dowry Prohibition Act and Section 25 of the Arms Act but the same resulted in submission of a final report, whereafter, the learned court below issued summons to informant opposite party No.2 and allowed her time to file protest petition. It is further submitted that the protest petition was filed by the informant opposite party No.2 but the same was not in proper format and consequent upon a memo dated 2nd January, 2023 received, the protest petition on record was not pressed but liberty was granted to submit a better application as it was prayed for. Ms. Das, learned counsel for the petitioners submits that considerable time has been allowed by the learned court below for filing of a protest petition, as a result of which, the petitioners, who are the bother-in-law and mother-in-law respectively have been unnecessarily harassed.

5. Mr. Praharaj, learned counsel for the State submits that the impugned order under Annexure-4 is not unjustified since protest petition was filed but thereafter, liberty was allowed in favour of informant opposite party No.2 to file a better one in proper form.

6. It is informed to the Court by Ms. Das, learned counsel for the petitioners that the case before the learned court below is fixed to 3rd February, 2023 for the said purpose.

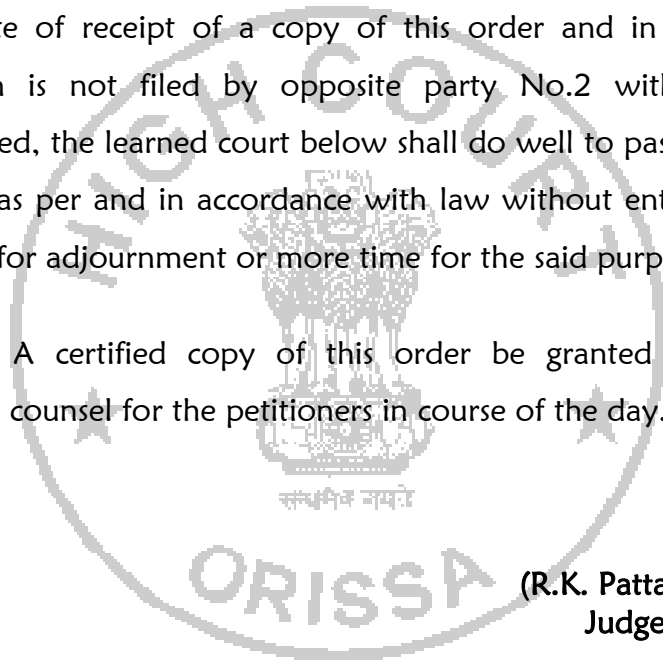
7. Notwithstanding the delay which has taken place in the filing of the protest petition and as liberty was granted to the informant opposite party No.2 to submit a better application, the Court is of the view that a last chance should be provided for filing of any such protest petition pursuant to the direction of the learned J.M.F.C.-III, Bhubaneswar in case the same is not filed on 3rd

February, 2023 which would serve the purpose and meet the ends of justice.

8. Accordingly, it is ordered.

9. In the result, CRLMC stands disposed of with a direction to the learned J.M.F.C.-III, Bhubaneswar that he shall endeavor and also ensure filing of protest petition at the instance of informant opposite party No.2 in connection with C.T. Case No.4320 of 2020, if not filed on 3rd February, 2023, within fifteen days from the date of receipt of a copy of this order and in case, protest petition is not filed by opposite party No.2 within the time stipulated, the learned court below shall do well to pass appropriate orders as per and in accordance with law without entertaining any prayer for adjournment or more time for the said purpose.

10. A certified copy of this order be granted to Ms. Das, learned counsel for the petitioners in course of the day.



(R.K. Pattanaik)
Judge