

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 536 of 2022

Mahammad Maihfuze@ Md. Maihfuze
Alam and others

Petitioners

Mr. Durga Prasad Dhal, Sr. Advocate

-Versus-

State of Odisha and another

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Opposite Parties

Mr. S.K. Mishra, ASC, OP No.1

None for OP No.2

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

17.10.2022

Order No.

04.

1. Heard learned counsel for the petitioners and learned Additional Standing Counsel for the State.

2. Instant petition under Section 482 Cr.P.C. is filed by the petitioners praying for quashing of the impugned order of cognizance under Annexure-2 whereby learned S.D.J.M., Sadar, Cuttack in G.R. Case No.596 of 2012 arising out of Cuttack Mahila P.S. Case No.69 of 2012 has taken cognizance of the offences under Sections 498-A/323/294/506/34 IPC read with 4 of D.P. Act against the petitioners on the grounds that there has been a compromise and dissolution of marriage between the parties, namely, petitioner No.1 and opposite party No.2.

3. Learned counsel for the opposite party submits that petitioner No.1 and opposite party No.2 have resolved their dispute with the intervention of the well wishers and local gentries and consequent of which, opposite party No.2 has received permanent alimony. In such view of the matter, learned counsel for the

petitioner submits that the criminal proceeding initiated against the petitioners in G.R. Case No.596 of 2012 should be quashed.

4. Learned counsel for the opposite party No.2 submits that the dispute between the petitioner No.1 and opposite party No.2 have been amicably settled on compromise and the parties submits that there has been dissolution of marriage between the parties therefore no fruitful purpose would be served by allowing the continuance of criminal proceeding against the petitioners. Referring to an affidavit sworn by opposite party No.2 whereby both the parties have reached at a compromise. The Court perused the same. From the affidavit at Flag-B it is submitted that petitioner No.1 and opposite party No.2 have no dispute left between them as they settled the matter out of the Court and opposite party No.2 received permanent alimony pursuant to such dissolution.

5. Learned counsel for the opposite party No.2 with reference to the copy of the judgment dated 16th April, 2022 passed by the learned Judge, Family Court, Cuttack in C.P. No.842 of 2021 dissolved the marriage between the parties on mutual consent. The Court perused the judgment of the family Court and finds that the parties have obtained a decree of divorce on mutual consent on payment of Rs.3,00,000/- towards permanent alimony and Rs.2,00,000/- towards maintenance, education and marriage of their daughter, who is in the custody of opposite party No.2.

6. The Court is aware of the settled position of law regarding termination of proceedings vis-à-vis the parties with civil and matrimonial disputes where the Supreme Court in the case of **B.S. Joshi and others Vrs. State of Haryana & Another (2003) 4 SCC 675** held that such jurisdiction may be exercised by the High Court taking into account the facts and circumstances of the case to meet the ends of justice. Having said so, the Court is of the view that it is

a fit case where inherent jurisdiction should be exercised. Accordingly, it is ordered.

7. In the result, the CRLMC stands allowed. the criminal proceeding in G.R. Case 596 of 2012 arising out of Cuttack Mahila P.S. Case No.69 of 2012 pending in the court of learned S.D.J.M.(S), Cuttack shall hereby quashed.

8. Issue urgent certified copy as per rules.

(R.K. Pattanaik)
Judge

U.K. Sahoo

