

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 974 of 2018

Sitaram Sunani and others

....

Petitioners

Mr. Pabitra Kumar Nayak, Advocate

-Versus-

State of Odisha and another

....

Opposite Parties

Mr. Pradip Kumar Rout, AGA, OP No.1

Mr. Radharaman Das Nayak for OP No.2

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

08.09.2022

Order No.

06.

1. Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for the opposite party No.2.
2. Instant petition under Section 482 Cr.P.C. has been filed by the petitioners praying for quashing of the criminal proceeding in G.R. Case No.1607 of 2013 corresponding to S.T. Case No.110 of 2017 in connection with Jharsuguda P.S. Case No.438 of 2013 pending in the file of learned District & Sessions Judge, Jharsuguda, on the grounds stated thereon.
3. Perused the copy of the charge-sheet at Annexure-1 series and other documents.
4. Learned counsel for the petitioners submits that petitioner no.1 and opposite party no.2 approached the learned Civil Judge (Senior Division), Jharsuguda and files an application under Section 13(b) of Hindu Marriage Act, 1955 and in the meantime a decree of divorce has been passed vide order dated 16th February, 2018, hence in such view of the matter and having regard to the affidavit filed by the opposite party that the matter has been resolved between

the parties, the criminal proceeding pending before the learned court below in criminal proceeding in G.R. Case No.1607 of 2013 should be quashed.

5. Learned counsel for the opposite party No.2 is present in Court and she submits that an affidavit was filed on the last occasion sworn by herself stating about the mutual divorce and the other order passed by learned court below in C.S.(M) Case No.19 of 2017 indicating therein that she is not interested to pursue the criminal proceeding.

6. In the aforesaid development, learned counsel for the petitioner refers to the affidavit filed before the learned Civil Judge, Senior Division, Jharsuguda along with the deposit which is at Annexure-3, so that the parties have mutually agreed to withdraw all the civil and criminal proceeding at Jharsuguda.

7. In view of the above and considering the submissions of learned counsel for the petitioner and opposite party No.2, the Court is of the view that petitioner no.1 and opposite party No.2 have mutually have already obtained decree of divorce under Section 15-B of the Hindu marriage Act. In such circumstances, this Court is of the view that Section 482 Cr.P.C. should be exercised in the matrimonial proceeding. The Court is aware of the settled position of law as laid down in the case of **B.S. Joshi and others Vrs. State of Haryana & Another** reported in (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 in order to ensure peace in the marital life of the parties. Accordingly, it is ordered.

8. In the result, the CRLMC stands allowed. Consequently, the criminal proceeding in G.R. Case No.1607 of 2013 corresponding to S.T. Case No.110 of 2017 in connection with Jharsuguda P.S. Case No.438 of 2013 pending in the file of learned District & Sessions Judge, Jharsuguda is hereby quashed.

9. Issue urgent certified copy as per rules.

(R.K. Pattanaik)
Judge

U.K.Sahoo

