

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.960 of 2022

Abhishek Jain

....

Petitioner

Mr. H.K. Shikhrwar, Advocate

-Versus-

State of Odisha and Another

....

Opposite Parties

Mr. T.K. Praharaj, SC

Mr. G.K. Mohanty, Advocate for O.P. No.2

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

03.11.2022

Order
No.
02.

1. Heard learned counsel for the parties.
2. Instant petition under Section 482 Cr.P.C. is at the behest of the petitioner assailing the order of cognizance under Annexue-3 and the entire criminal proceeding in connection with G.R. Case No.757 of 2017 corresponding to Rourkela Mahila P.S. Case No.20 of 2017 pending in the file of learned S.D.J.M., Panposh, Rourkela on the grounds of compromise and settlement reached at between the parties.
3. In fact, opposite party No.2 lodged the FIR, a copy of which is at Annexure-1, later to which Rourkela Mahila P.S. Case No.20 of 2017 was registered under Sections 498-A & 406 IPC read with 4 of the Dowry Prohibition Act.
4. Mr. Shikhrwar, learned counsel for the petitioner submits that the petitioner is the husband of opposite party No.2, however, in the meantime, there has been a compromise and settlement, inasmuch as, parties have approached the Family court at Sambalpur in C.P. No.12 of 2022 seeking divorce by mutual consent in terms of Section 13-B of the Hindu Marriage Act which is pending disposal. It

is submitted that in view of aforesaid development and the fact that opposite party No.2 has already withdrawn the D.V. proceeding as well as proceeding initiated under Section 13(1) of the Hindu Marriage Act on account of compromise and settlement between her and the petitioner, no worthy purpose would be served to allow continuation of the criminal proceeding in G.R. Case No.757 of 2017 pending before the court of learned S.D.J.M., Panposh, Rourkela and it should therefore be quashed in the interest of justice.

5. Learned counsel for opposite party No.2 admits the fact of compromise and files an affidavit sworn by opposite party No.2 stating about the settlement amicably reached at and also regarding the mutual divorce which is pending decision before the concerned Family court. It is submitted that in view of the above facts and parties since have decided to separate and dissolve their marriage, no fruitful purpose would thereby be served in having the criminal proceeding before the court below and therefore, it should be brought to an end and terminated.

6. Opposite party No.2 is physically present in Court along with her identity proof, such as, original Aadhar card and the same is perused. On being asked, opposite party No.2 admits and confirms the settlement between her and the petitioner and also claimed that the proceeding for divorce by mutual consent is pending before the Family court at Sambalpur and she does not have any objection, in the event the proceeding arising out of Rourkela Mahila P.S. Case No.20 of 2017 is quashed at the instance of the petitioner.

7. Learned counsel for the petitioner submits that under the above circumstances and in view of the settled position of law as enunciated by the Apex Court decision of **B.S. Joshi and others Vrs.**

State of Haryana and another (2003) 4 SCC 675, wherein, it has been held that in peculiar facts and circumstances of a case especially where dispute is matrimonial or civil or of similar nature, jurisdiction under Section 482 Cr.P.C may be exercised even though the offences are non-compoundable.

8. Having regard to the above facts and submissions of learned counsel for the respective parties and taking notice of the legal position as cited herein above, the Court is of the considered view that since the parties have decided to settle the dispute before the court of learned Family court at Sambalpur for dissolution of marriage in terms of Section 13-B of the Hindu Marriage Act, the criminal proceeding in G.R. Case No.757 of 2017 should be quashed or else it would create and cause a lot of disturbance in the lives of the parties. In other words, it is a fit case where jurisdiction under Section 482 Cr.P.C. should be exercised in the interest of justice.

9. Accordingly, it is ordered.

10. In the result, CRLMC stands allowed. Consequently, the criminal proceeding in G.R. Case No.757 of 2017 corresponding to Rourkela Mahila P.S. Case No.20 of 2017 pending in the file of learned S.D.J.M., Panposh, Rourkela is hereby quashed.

11. Urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge