

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 1346 of 2017

Deepak Kumar Panigrahy

....

Petitioner

Mr. S.S. Ray-2, Advocate

-Versus-

State of Orissa and another

....

Opposite Parties

Mr.P.K. Rout, AGA, OP No.1

Mr. Salauddin Khan, Advocate for OP No.2

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

19.09.2022

Order No.

08.

1. Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for opposite party No.2.
2. Instant petition under Section 482 Cr.P.C. has been filed by the petitioner for quashing of the FIR in Pattapur P.S. Case No.106 of 2016 corresponding to G.R. Case No.106 of 2016 pending in the file of learned Nyayadhikari, Gram Nyayalaya, Sanakhemundi on the grounds stated therein.
3. Learned counsel for the petitioner submits that the parties have dissolved their marriage on mutual consent by approaching the Family Court, Berhampur, Ganjam in C.P. No.76 of 2017 and in the meantime, opposite party No.2 has remarried after divorce and considering the aforesaid development, the criminal proceeding pending before the court below may be quashed in the interest of justice and while contending so, a copy of the order in C.P. No.76 of 2017 passed by the Family Court, Berhampur is produced. It is

contended that the divorce was obtained on mutual consent in terms of Section 13(B) of the Hindu Marriage Act.

4. Learned counsel for opposite party No.2 admits the separation and dissolution of marriage between the parties by a decree of divorce passed by the learned Judge, Family Court, Berhampur and submits that opposite party No.2 is presently staying outside the State of Odisha.

5. Considering the above submission of learned counsel for the parties and also the objection of the learned AGA, the Court finds that in view of the separation by a decree of divorce in C.P. No.76 of 2017 by the order of the learned Judge Family Court, it is a fit case where the criminal proceeding should be quashed in the interest of the parties keeping in view the decision of the Supreme Court in the case of **B.S. Joshi and others Vrs. State of Haryana & Another** reported in (2003) 4 SCC 675, wherein, it has been held that such jurisdiction may be exercised by the High Court taking into account the facts and circumstances of the case. Having said so, the Court is of the view that inherent jurisdiction should be exercised in the present case in order to ensure peace and stability in the lives of the parties. Accordingly, it is ordered.

6. In the result, the CRLMC stands allowed. Consequently, the proceeding in G.R. Case No.106 of 2016 arising out of Pattapur P.S. Case No.106 of 2016 pending in the file of learned Nyayadhikari, Gram Nyayalaya, Sanakhemundi is hereby quashed.

7. Issue urgent certified copy of this order as per rules.

(R.K. Pattanaik)
Judge