

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 1866 of 2015

Dibakar Behera

....

Petitioner

Mr. Samir Ku.Mishra, Advocate

-Versus-

State of Odisha & Another

....

Opposite Parties

Mr. G.R. Mohapatra, ASC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

22.07.2022

Order No.

- 03.
1. Heard learned counsel for the petitioner and learned ASC for the State. None appears for the opposite party No.2. In fact, the record does not reveal issuance of notice to opposite party No.2 though it is claimed by the learned counsel for the petitioner that requisites had been filed long before.
 2. Instant petition Section 482 of Cr.P.C. is at the behest of the petitioner for quashing of the criminal proceeding in C.T. Case No. 320 of 2015 arising out of Basta P.S. Case No.33 of 2015 pending in the file of learned S.D.J.M., Balasore on the grounds stated therein.
 3. As it revealed from the record, the F.I.R. was lodged by the victim in the year, 2015 whereupon, Basta P.S. Case No. 33 of 2015 was registered under Sections 312/417/376 of IPC. The allegations made by the victim, namely, opposite party No.2 stand narrated in the F.I.R.
 4. Learned counsel for the petitioner submits that later to the lodging of the F.I.R. and sometime thereafter, the petitioner and

opposite party No.2 have married. The certified copy of the statement of the victim recorded under Section 164 Cr.P.C. is also produced before the court today to suggest that she has married the petitioner.

5. Considering the nature of allegations made and subsequent development as to the marriage between the parties, the learned counsel for the petitioner submits that under such circumstances, inherent jurisdiction of the Court Section 482 Cr.P.C. should be exercised in the interest of justice. It is further apprised to the Court by the learned counsel for the petitioner that in the meantime, investigation stood concluded and charge sheet to have been filed under Sections 376/376(2)(n)/417/506 IPC.

6. As it appears, the offences are non-compoundable in nature. However, it is submitted that in view of the marriage between the parties which is disclosed by the victim herself in her statement under Section 164 Cr.P.C. and also in the affidavit filed by the IIC/concerned P.S. dated 24th September, 2019 which has been submitted pursuant to the direction of this Court by order dated 4th May, 2015, the Court finds that petitioner and opposite party No.2 stated to have married and leading a happy conjugal life. In the affidavit, though the IIC indicated that the charge sheet has been filed against the petitioner with the alleged offences but confirmed about the marriage between the opposite party No.2 and the accused and both of them to be living together in the village-Baharda situate under Basta P.S. and also blessed with a son. It is further indicated therein that opposite party No.2 verbally requested the IIC to withdraw the criminal case initiated against the petitioner.

7. Notwithstanding the fact that the offences are non-compoundable in nature but considering the peculiar facts and circumstances of the case as parties were in a relationship prior to the

F.I.R. being lodged and subsequently got married and in view of the affidavit filed by the IIC to the effect that both are presently staying together in the village and leading a conjugal life peacefully and even blessed with a son, the Court is of the considered view that under such circumstances, the proceeding which is pending before the court below should be quashed. In fact, the Supreme Court has settled the law that even where the offences are non-compoundable, proceeding may be quashed but then where the offence is grievous in nature like rape, dacoity, murder, it should not be permitted but then, it depends on the facts and circumstances of each particular case and furthermore, where there is a compromise, the Court is to find out whether under compulsion or by any kind of threat administered to the victim, it has been obtained. Being alive of the above position of law and having regard to the facts of the present case as to the marriage between the petitioner and opposite party No.2 and as they are leading a happy and peaceful conjugal life, the Court is of the opinion that it is a fit case where the criminal proceeding pending before the court below should be quashed in order to restore peace in the lives of the parties concerned.

8. Accordingly, it is ordered.

9. In the result, CRLMC stands allowed.

10. Consequently, the proceeding in C.T. Case No. 320 of 2015 arising out of Basta P.S. Case No. 33 of 2015 pending before the learned S.D.J.M., Balasore is hereby quashed.

(R.K. Pattanaik)
Judge