

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.14 of 2016

Salem Bikram Kumar and Others

....

Petitioners

Mr. R.K. Nayak, Advocate

-Versus-

State of Orissa

....

Opposite Party

Mr. T.K. Praharaj, SC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

12.12.2022

Order
No.

07.

1. Heard learned counsel for the petitioner and learned counsel for the State. None appears for opposite party No.2.
2. Learned counsel for the petitioner submits that notice was served on opposite party No.2 through local PS which is said to have been received by her father. Despite such service, opposite party No.2 has not entered appearance. In view of service of notice through local PS, it is held to be sufficient as against opposite party No.2.
3. Learned counsel for the petitioner submits that matter has been compromised between the parties, inasmuch as, both of them obtained mutual divorce on consent by approaching Family Court at Cuttack. While contending so, learned counsel for the petitioner refers to Annexure-3 series, on perusal of which the Court finds that by order dated 13th August, 2015 in C.P. No.66 of 2015, the learned Judge, Family Court, Cuttack considering an application under Section 10(A) of the Indian Divorce Act, 1869 dissolved the marriage between the petitioner and opposite party No.2 by a decree on mutual consent.

4. One of the accused persons, namely, mother-in-law is dead and in support thereof, a copy of her death certificate as at Annexure-4 is referred to.

5. It is submitted by the learned counsel for the petitioner that at the time of resolution of marriage, parties agreed that steps would be taken by them for withdrawal of cases pending in different forums including the present one i.e. G.R. Case No.1253 of 2012 arising out of Cuttack Mahila P.S. Case No.142 of 2012. A copy of the application under Section 10(A) of the Indian Divorce Act which is under Annexure-3 series is brought to the notice of the Court with regard to such an understanding between the parties for withdrawal of the cases as agreed upon before dissolution of marriage. Since there was understanding between the parties and on that basis the mutual divorce was obtained in C.R. No.66 of 2015, the Court is of the view that no fruitful purpose would be served to keep the criminal proceeding pending before the learned court below alive and it should therefore be quashed in the interest of justice,

6. Accordingly, it is ordered.

7. Consequently, CRLMC stands allowed. As a necessary corollary the criminal proceeding pending before the learned S.D.J.M. Sadar, Cuttack in connection with G.R. Case No.1253 of 2012 corresponding to Cuttack Mahila P.S. Case No.142 of 2012 is hereby quashed.

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

(R.K. Pattanaik)
Judge