

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 4733 of 2015

Bidyadhar Behera & others

....

Petitioners

Mr. Samir Kumar Mishra, Advocate

-Versus-

State of Odisha and others

....

Opposite Parties

Mr. Manoranjan Mishra, ASC-O.P. No.1

None appears for O.P. Nos.2 and 3

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

17.08.2022

Order No.

- 06.
1. Heard learned counsel for the petitioners, learned counsel for the State. None appears for opposite party Nos.2 and 3 when the matter is called.
 2. The present petition under Section 482 Cr.P.C. has been filed at the behest of the petitioners for quashing of the impugned order dated 12th September, 2008 passed by the learned S.D.J.M.(S), Baripada on the grounds stated therein.
 3. Mr. S.K.Mishra, learned counsel for the petitioners submits that petitioner No.3 and opposite party No.3 have dissolved their marriage by a decree of divorce dated 28th July, 2013 in Mat Suit No.440 of 2012 as per Section 13(B) of the Hindu Marriage Act, 1955 on the terms and conditions one of which is that present case arising out of G.R. Case No.1268 of 2007 registered under Sections 498(A)/323/506/34 I.P.C. and Section 4 of D.P. Act besides the proceeding under Section 125 Cr.P.C vide C.M.C. No.85 of 2007

initiated at the instance of opposite party No.3 against petitioner No.3 and others shall be dropped. It is further submitted that after the decree of divorce in Mat Suit No.440 of 2012, further continuance of the criminal proceeding in G.R. Case No.1268 of 2007 would be an abuse of the process of law and therefore, it should be quashed.

4. In fact, the parties had a divorce on mutual consent as is revealed from Annexure-3. The petitioner No.3 and opposite party No.3 had approached the court of learned Civil Judge (Senior Division), Baripada by filing a petition under Section 13(B) of Hindu Marriage Act, 1955, which was allowed, as a result of which, by order dated 28th July, 2013, their marriage was dissolved and a decree of divorce was drawn up thereafter. As per the understanding between the parties, G.R. Case No.1268 of 2007 was to be dropped which is in view of clause (e) of the terms and conditions. In fact, considering the above facts that there is a mutual divorce, which was followed by a decree in terms of the conditions, a copy of which is annexed to the final order of the learned Civil Judge (Senior Division), Baripada, further proceeding in G.R. Case No.1268 of 2007 should not be allowed to continue which would rather be an abuse of process of law. Accordingly, it is ordered.

5. In the result, the CRLMC application stands allowed. Consequently, the criminal proceeding in G.R. Case No.1268 of 2007 pending in the court of learned S.D.J.M.(S), Baripada is hereby quashed.

(R.K. Pattanaik)
Judge