

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 1001 of 2021

Kanha @ Subodh Tarai

....

Petitioner

Mr. Biplab Kumar Dash, Advocate

-Versus-

State of Odisha and Another

....

Opposite Parties

Mr. S.S. Mohapatra, ASC, OP No.1

Mr. D.R. Bhokta, Advocate for OP No.2

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
18.11.2022

Order No.

09.

1. Heard learned counsel for the respective parties.
2. Instant petition is filed by the petitioner for quashing of the impugned order of cognizance dated 27th April, 2019 passed by the learned Additional Sessions-cum-Special Judge, Jagatsinghpur in Spl. G.R. Case No.53 of 2018 in connection with Kujanga P.S. Case No.31 of 2018 on the ground of compromise.
3. Perused the copy of the FIR as at Annexure-1, order of cognizance dated 27th April, 2019 at Annexure-2 and the statement of the victim recorded under Section 161 Cr.P.C. at Annexure-3.
4. In fact, the FIR was lodged by the informant, opposite party No.2, pursuant to which, Kujang P.S. Case No.31 of 2018 was registered under Sections 376(2)(n) IPC along with other allied offences.
5. Learned counsel for the petitioner submits that there is a compromise between the parties and settlement between the parties

as opposite party No.2, victim has married elsewhere and considering the aforesaid development notwithstanding the filling of chargesheet under the alleged offences, the proceeding which is pending before the learned Additional Sessions-cum-Special Judge, Jagatsinghpur should be quashed in the interest of justice. While claiming so, learned counsel for the petitioner files an affidavit sworn by opposite party No.2 indicating therein the fact about the compromise effected between the parties and marriage of opposite party No.2 elsewhere.

6. Mr. Mohapatra, learned counsel for the State submits that since the offence under Section 376 IPC is not compoundable in nature, the criminal proceeding should not be quashed in exercise of jurisdiction under Section 482 Cr.P.C..

7. Opposite party No.2 is physically present in Court with her identity proof i.e. original Aadhar card and the same are perused. The petitioner is also present in person and submits his Aadhar card for identification.

8. On being asked, opposite party No.2 submits that she is married elsewhere and leading a happy conjugal life at present and there is no objection if the criminal proceeding is quashed by the order of this Court.

9. The affidavit sworn by opposite party No.2 is perused by the Court. It is made to understand that opposite party No.2 and the petitioner have had a consensual relationship and under the peculiar circumstances narrated, the FIR was lodged. However, according to opposite party No.2, the matter is settled and opposite party No.2 is leading a happy marital life without any disturbance.

10. Considering the fact that parties have had a prior relationship, the further continuance would worsen the marital life of opposite party No.2 in particular. It is pertinent to mention here that the parties have settled in their lives and both have married elsewhere and considering the extra-ordinary situation and keeping

in view the uppermost interest of opposite party No.2, the Court is of the view that inherent jurisdiction should be exercised to quash the proceeding as no fruitful purpose would be served with the continuance of the criminal proceeding should be brought to an end in the interest of the parties and in view of the decision of the Apex 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 inherent jurisdiction may be exercised taking into account the facts and circumstances of each particular case. According to the Court, it is a fit case where inherent jurisdiction should be exercised to bring an end to the litigation in order to restore peace and stability in the respective lives of the parties.

11. Accordingly, it is ordered.

12. Consequently, the criminal proceeding in Spl. G.R. Case No.53 of 2018 arising out of Kujanga P.S. Case No. 31 of 2018 pending in the file of learned Additional Sessions-cum-Special Judge, Jagatsinghpur is hereby quashed.

13. It is further directed that in the event victim opposite party No.2 received any compensation under the Victim's Compensation Scheme, 2018, the same shall be realized as per and in accordance with law by the concerned DLSA unless there is any legal impediment.

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

(R.K. Pattanaik)
Judge