

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1738 of 2019

<i>Satyaswarup Mati and others</i>		<i>Petitioners</i>
<i>State of Odisha and another</i>		<i>Opposite Parties</i>

CORAM: JUSTICE S. PUJAHARI

ORDER

30.03.2022

Order
No.

06.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Petitioners, the learned counsel for the State-Opposite Party No.1 and Mr. Deepak Kumar Sahoo, learned counsel appearing on behalf of Mr. Tapan Jyoti Pani, learned counsel for the Opposite Party No.2.
3. The Petitioner No.1-husband in person appears through virtual mode.
4. This application under Section 482 of Cr.P.C. has been filed by the Petitioners to quash the order of cognizance dated 22nd March, 2017 passed by the learned S.D.J.M., Dhenkanal in G.R. Case No.1104 of 2015.

5. It appears that the aforesaid case arises out of a marital discord between the Petitioner No.1 and Opposite Party No.2. The other Petitioners are in-laws. The Petitioner No.1 is the husband of the Opposite Party No.2-Informant. The Petitioner No.1 and Opposite Party No.2 are now living separately and their marriage has already been dissolved by a decree of divorce vide judgment dated 11th July, 2017 passed by the learned Judge, Family Court, Dhenkanal where Opposite Party No.2 has already received a sum of Rs.2,00,000/- from the Petitioner No.1 as her permanent alimony and both of them want to settle all the disputes. An affidavit has been filed by the Opposite Party No.2 as her evidence. In the evidence she has already stated that not to proceed with the criminal case. The criminal case initiated in the year 2015. But, now the Opposite Party No.2-wife has represented through his counsel, who admits the same to have been filed, but she has not appeared as she has already remarried. But does dispute the fact that she does not want to proceed with the matter.

6. It is stated by the learned counsel for the Petitioners that since Petitioner No.1 and Opposite Party No.2 have already

snapped their matrimonial relationship vide judgment dated 11th July, 2017 passed by the learned Judge, Family Court, Dhenkanal and the Opposite Party No.2 has already received an amount of Rs.2,00,000/- from the Petitioner No.1 as permanent alimony as per direction of the learned Judge, Family Court, Balasore, the aforesaid proceeding may be quashed as no useful purpose is going to be served to continue with the same inasmuch as hereinafter there shall be bleak chance of conviction.

7. Learned counsel for the State, however, submits that in the absence of the victim, the contention of the learned counsel for the Petitioners is devoid of merit.

8. It appears that in this case though the Opposite Party No.2-wife had agreed to settle all the disputes in the matrimonial proceeding, but thereafter she played hide and seek and not appearing in this case. In the case of ***Ruchi Agarwal vrs. Amit Kumar Agrawal and others***, reported in (2005) 3 SCC 299 and also in the case of ***Mohd. Shamim and others vrs. Nahid Begum (Smt.) and another***, reported in (2005) 3

SCC 302, wherein the case of *Ruchi Agarwal* has been followed, the Apex Court in a similar facts and situation have quashed the criminal proceeding. Therefore, this Court is of the view that hereinafter there shall be bleak chance of conviction in this case, so the continuance of the prosecution shall be an abuse of the process of the Court.

9. I would, therefore, allow this Criminal Misc. Case and quash the impugned order of cognizance as well as the entire criminal prosecution launched against the Petitioner. The trial court shall do well to comply with this order on production of the certified copy of this order.

10. Urgent certified copy of this order be granted on proper application.

(S. Pujahari)
Judge

DA