

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1185 of 2016

Rajendra Kumar @ Rajendra ***Petitioners***
Kshiraohi Tanmaya Kanta and
others

-versus-

State of Odisha and others ***Opposite Parties***

CORAM: JUSTICE S.PUJAHARI

ORDER
29.07.2022

Order No.

- 08.
1. This matter is taken up through Hybrid mode.
 2. This application under Section 482 of Cr.P.C. has been filed by the petitioner to quash the order dated 02.12.2015 passed by the learned Special Judge, Nayagarh in T.R. Case No.31 of 2015, arising out of Special G.R. Case No.34 of 2015 pending in the court of the learned Special Judge, Nayagarh taking cognizance of the offences under Sections 363, 366, 376/34 of IPC and Sections 4 and 6 of the POCSO Act as well as the entire criminal proceeding.
 3. Heard the learned counsel for the parties.
 4. Learned counsel for the petitioners submits that since the matter has already been settled between the parties the petitioner no.4 and opposite party no.2-victim girl have

filed a compromise petition-cum-joint affidavit stating therein that both of them are staying together as husband and wife now and blessed a female child and the opposite party no.2-victim has no objection, if the impugned order of cognizance as well as the entire criminal prosecution initiated against the petitioners is quashed, the impugned order of cognizance as well as the entire criminal prosecution launched against the petitioners may be quashed.

5. Learned counsel for the State, however, vehemently opposes such prayer made with the submission that the offences alleged being heinous and serious in nature and against the society. Therefore, the Court should not quash the proceeding in exercise of the power under Section 482 Cr.P.C.

6. The inherent power of this Court under Section 482 Cr.P.C. to quash the criminal proceeding, no doubt, can be exercised where the parties have settled the dispute between themselves. However, such power is to be exercised with caution.

7. In the case of *Narinder Singh and others v. State of Punjab and another*, reported in (2014) 6 SCC 466 while dealing with such power to quash the prosecution on the ground of compromise, the Apex Court have held that when the parties have reached the settlement and on that basis petition for quashing the criminal proceeding is filed, the guiding factor in such cases would be to secure: (i) ends of

justice, or (ii) to prevent abuse of the process of any Court. While exercising the power, the High Court is to form an opinion on either of the aforesaid two objectives. Such power is not to be exercised in those cases which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on the society. Similarly, for offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

8. In view of the aforesaid law laid down, I am of the view that the prayer made by the petitioner for quashment of the impugned order of cognizance as well as the entire criminal proceeding on the ground stated is without any substance and, accordingly, the CRLMC stands dismissed.

(S. Pujahari)
Judge

Uks