

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 1560 of 2022

Benu Samal and others

....

Petitioners

Mr. Malaya Kumar Swain, Advocate

-Versus-

State of Orissa and others

....

Opposite Parties

Mr. T.K. Praharaj, SC, OP No.1

Mr. B.K. Raj, Advocate for OP Nos.2 to 4

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

18.10.2022

Order No.

03.

1. Heard learned counsel for the petitioners, learned counsel for the State and learned counsel appearing for opposite party Nos.2 to 4.

2. Instant petition under Section 482 Cr.P.C. is filed by the petitioners praying for quashing of the order of cognizance dated 24th February, 1018 passed by the learned S.D.J.M.(S), Cuttack in G.R. Case No.1899 of 2017 arising out of Badambadi P.S. Case No.248 of 2017 on the ground of compromise.

3. Learned counsel for the petitioners submits that parties have resolved their dispute in the meantime and living peacefully being in cordial relationship and in such view of the matter, the criminal proceeding which is pending before the learned court below should be quashed. While claiming so, learned counsel for the petitioners refers to the affidavit filed by opposite party No.2 and two others, namely, Purusottam Kanungo and another. The learned counsel for

opposite party Nos.2 to 4 admits the fact of compromise and settlement reached at between the parties and he also refers to the above affidavits filed by opposite party Nos.2 to 4.

4. Mr. Praharaj, learned counsel for the State submits that Section 307 IPC is not compoundable in nature and in so far as opposite party No.3 is concerned, Mr. Praharaj submits that he has received the medical examination report and it shows simple head injury, It is further submitted that the reports in respect of other two injured persons are not available with him.

5. Learned counsel for the petitioners as well as opposite party Nos.2 to 4 submit that other two injured persons also received minor injuries and considering the fact of compromise between the parties, the proceeding which is pending before the court below should be quashed in the interest of justice.

6. The Court perused the affidavits as at Flags-2 & 3 and it shows that there has been a settlement between both the sides. In fact, opposite party Nos.2 to 4 have stated that in view of the settlement reached at peace and tranquility has prevailed and both sides are leading happy life and do not have any objection, if the criminal proceeding is quashed against the petitioners.

7. The parties are physically present in Court with their identity proof. In support of identification of opposite party Nos.2 to 4, they produced original Aadhar cards with truly attested copies thereof, which are kept in record. On being asked, the informant as well as two others, who are present in Court, admit about the compromise having taken place between them. The Court is aware of the settled position of law laid down by the Apex Court and also the catena of judgments including the judgment 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 a particular case. Since the parties have settled their differences which are clearly evident from the affidavits so also the confirmation of the same by opposite party Nos.2 to 4, who are physically present in Court.

8. Having regard to the above facts and also the compromise inter se parties and having regard to the settled position of law vis-à-vis exercise of inherent jurisdiction under Section 482 Cr.P.C. Therefore, it is a fit case where such jurisdiction should be exercised to quash the proceeding which is pending before the learned court below. Accordingly, it is ordered.

9. In the result, the CRLMC stands disposed of.

10. Consequently, the order of cognizance dated 24th February, 2018 passed by the learned S.D.J.M.(S), Cuttack in G.R. Case No.1899 of 2017 arising out of Badambadi P.S. Case No.248 of 2017 is hereby quashed.

11. Issue urgent certified copy of this order on proper application.

(R.K. Pattanaik)
Judge