

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1570 of 2022

Pratap Tarai & others

....

Petitioners

Mr. P.R.Singh, Advocate

-Versus-

State of Odisha & others

....

Opposite Parties

Mr. S.S.Mohapatra, ASC

CORAM:  
MR. JUSTICE R.K. PATTANAİK

ORDER  
21.10.2022

Order No.

03.

1. Heard learned counsel for the petitioners, Mr. Mohapatra learned counsel for the State and learned counsel for opposite party Nos. 2 & 3.

2. Instant petition under Section 482 of Cr.P.C. is filed by the petitioners for quashing of the criminal proceeding in connection with C.T. Special Case No. 65 of 2021 corresponding to Nihal Prasad P.S. Case No. 213 of 2021 pending in the file of learned Judge, Special Court, POCSO, Dhenkanal on the ground of compromise between the parties.

3. Perused the copy of the F.I.R. which is at Annexure-2.

4. In fact, after the report was lodged, Nihal Prasad P.S. Case No. 213 of 2021 dated 17<sup>th</sup> October, 2021 was registered under

Sections 376(2)(n) IPC and other allied offences including Section 6 of the POCSO Act.

5. Learned counsel for the petitioners submits that there has been a compromise between both the sides in respect of which an affidavit is filed by opposite party No.2 which is on record as at Annexure-4 series. It is further submitted that affidavits have been filed by opposite party Nos. 2 & 3 which are at flag-'B' and 'C' respectively. Learned counsel for the petitioners submits that in view of the above compromise and the affidavits, the criminal proceeding which is pending before the learned Special court should be quashed in the interest of justice which is strongly objected to by Mr. Mohapatra, learned counsel for the State on the ground that it is a case under Section 6 of the POCSO Act and that apart, the parties are not living together.

6. In response to the above, learned counsel for the petitioners submits that the marriage between the parties could not be materialized due to difference in caste but then, post submission of chargesheet there has been a compromise between the parties which is clearly evident from the affidavits sworn by opposite party Nos.2 & 3 and on such ground, the criminal proceeding should be brought to an end.

7. It is contended that if the Court is not inclined to quash the criminal proceeding in C.T. Special Case No. 65 of 2021, at least the principal accused, namely, petitioner No.1 with whom the victim had eloped should be directed to surrender and allowed to be released on bail in view of the aforesaid development regarding compromise. It is submitted that petitioner Nos. 2 to 5 are already

on bail except petitioner No.1 since he has been shown as an absconder in the chargesheet.

8. Considering the limited submission of the learned counsel for the petitioners though the Court was not inclined to quash the proceeding despite a compromise between the parties, it is of the view that in view of the affidavits filed by opposite party Nos. 2 & 3, petitioner No.1 who is the principal accused responsible for the alleged incident should be directed to surrender and go on bail subject to conditions.

9. Accordingly, it is ordered.

10. In the result, the CRLMC stands disposed of with a direction to petitioner No.1 to surrender before the learned court of Judge, Special Court, POCSO, Dhenkanal on or before 11<sup>th</sup> November, 2022 in connection with in connection C.T. Special Case No. 65 of 2021 arising out of Nihal Prasad P.S. Case No. 213 of 2021 and in the event of his surrender, the court shall release him on bail with conditions.

11. An urgent certified copy of this order be issued as per rules.

(R.K. Pattanaik)  
Judge