

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC NO.2775 of 2016

(In the matter of application under Section 482 of the Criminal Procedure Code, 1973.).

Chaitanya Das ***Petitioner***

-versus-

State of Orissa and others ***Opposite Parties***

For Petitioner : ***Mr. R.N.Parija, Advocate***

For Opposite Parties : ***Mr. S.R. Roul, ASC***
[O.P. No.1]
Mr. P.K.Nayak, Advocate
[O.P. No.2]
Mrs. P.P.barik, Advocate
[O.P. No.3]

CORAM:
JUSTICE G. SATAPATHY

ORDER
23.11.2022

Order No.
06.

1. This is an application U/S.482 of Cr.P.C. by the petitioner praying therein to quash the order taking cognizance passed on 22.12.2015 by learned J.M.F.C., Chandbali in G.R. Case No.212

of 2015 as well as the criminal proceeding arising thereon on the ground of amicable settlement between the parties.

2. Petitioner is stated to be the father-in-law of Opposite party No.2 who is the Complainant/Informant and the wife of Opposite Party No.3. Criminal law was set into motion after the complaint instituted by O.P.No. 2 in 1.C.C. No. 76 of 2015 was sent to Police Station U/S. 156(3) of the Cr.P.C. and registered as Chandbali P.S. Case No. 90 of 2015 corresponding to G.R. Case No. 212 of 2015 of the Court of learned J.M.F.C., Chandbali which culminated in submission of charge-sheet against the petitioner and others for offences punishable U/Ss.498-A/294/406/506/34 of IPC read with Section 4 of D.P. Act, under which the cognizance was taken.

3. Heard Mr. B. Dalai, learned counsel for the petitioner, Mr. S.R. Roul, learned Additional Standing Counsel for the State-opposite party no.1, Mr. K.K. Sahoo, learned counsel for the opposite party no.2-cum-informant and Ms. Pragyan Paramita Barik learned counsel for the O.P. No. 3-cum- Husband of the Informant in the matter of present CRLMC.

4. At the threshold of hearing, learned counsel for the petitioner and opposite party nos.2 and 3 jointly submit that the

present case was the outcome of the family dissension between the informant and the petitioner & his family members including O.P. No.3 and such matter have been amicably settled amongst the parties and right now the opposite party No.3 and informant are staying together as husband and wife and continuing their marital relationship being blessed with two daughters and the informant having no grievances against her husband (OP No.3) as well as petitioner and other family members, the further proceeding in this case is an abuse of process of law and, therefore, the criminal proceeding against the petitioners may be quashed.

5. Mr. S.R. Roul, learned Additional Standing Counsel for the State-opposite party no.1 does not raise any objection to quashing of the Criminal Proceeding by stating that when the parties have filed joint affidavit showing amicable settlement amongst themselves, it would be in the interest of justice to restore the family of the informant with her husband and other in-laws arrayed as accused in the case.

6. The informant Lili Behera @ Lili Das, wife of opposite party No.3-Biswanath Das, being identified by Mr. P.K.Nayak, learned counsel for OP No.2 is personally present in the Court today along with petitioner Chaitanya Das, being identified by his

learned counsel Mr. R.N.Parija and opposite party No.3- Biswanath Das being identified by Mrs. P.P.Barik, learned counsel. The parties are present along with their respective counsels in the Court. Admittedly, petitioner, OP No. 2 and OP No.3 have filed a joint affidavit in the Court on 31.10.2022 stating therein about amicable settlement of dispute between them by intervention of village gentries and leading a happy conjugal life together. On being asked, the informant states before the Court that she is residing with her husband-cum-OP. No.3- Biswanath Das and she has no grievances against the petitioner and opposite party No.3 or any of the family members. She further states that she is residing with her husband and in-laws including petitioner in this case in a joint family and now leading a happy conjugal life being blessed with twin grown up daughters.

7. Considering the submissions advanced on behalf of the parties and taking into consideration the fact that the opposite party no.2- Lili Behera @ Lili Das is residing with opposite party No.3- Biswanath Das as wife and husband along with the petitioner in a joint family and leading a happy family life and further the fact that the offences alleged against the petitioner are U/Ss.498-A/294/406/506/34 of IPC read with Section 4 of D.P.

Act which relates to torture of wife by the husband and her in-laws for demand of dowry, but offence U/S.498-A of IPC by itself is not compoundable in nature, however, such offence can be quashed in exercise of inherent power of this Court on the ground of amicable settlement between the parties in view of the law laid down in ***B.S. Joshi v. State of Haryana; 2003 (4) SCC 675***, wherein the apex Court has observed that:

“non exercise of inherent power to quash the proceeding to meet the ends of justice would prevent women from settling earlier and that would be against the object of Section 498-A.”

8. Although the aforesaid offences as alleged against the petitioner, OP No.3 and other in-laws are not compoundable in nature but such proceeding can be quashed in view of the decision in ***Gian Singh v. State of Punjab and another; (2012) 10 SCC 303***, wherein the apex Court has been pleased to hold as under:

“High Court must refrain from quashing criminal proceedings if the offence involved is a heinous and serious offence or when public interest is involved. However, if the offence is merely a civil matter, offences arising from commercial transaction, where the wrong is personal in nature and the parties have resolved their dispute, the proceeding may be quashed.”

9. Social justice having adorned in our preamble is the face of our sacred Constitution and one of the cherished object of such social justice is unity and preservation of family life than

separation of wife and husband in a family. In this case when the informant has come forward to preserve her family life with the petitioner and opposite party No.3, rather than getting separated from them, it would be travesty of justice if she is not allowed to preserve her family to lead a happy conjugal life with her husband-opposite party no.3 along with their children and the petitioner. In such situation, it becomes the duty of the Court to encourage genuine settlement of matrimonial dispute. Besides, it would be extremely harsh and insult to a woman who had already settled the dispute with her in-laws including husband being blessed with two daughters out of their wedlock and continuing to stay happily with them for the last fifteen years, if such woman is not allowed to or prevented from settling the matrimonial dispute with her in-laws including the husband.

9.1. Indisputably, CHAPTER-XX-A “OF CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND” containing the offence U/S.498-A of the IPC was introduced by way of Criminal Law (Second Amendment) Act, 1983 (Act No. 46 of 1983) S.2 with effect from 25.12.1983 to prevent torture to a women by her husband or by relatives of her husband by way of punishment to erring husband and his relatives who harass or torture the wife to

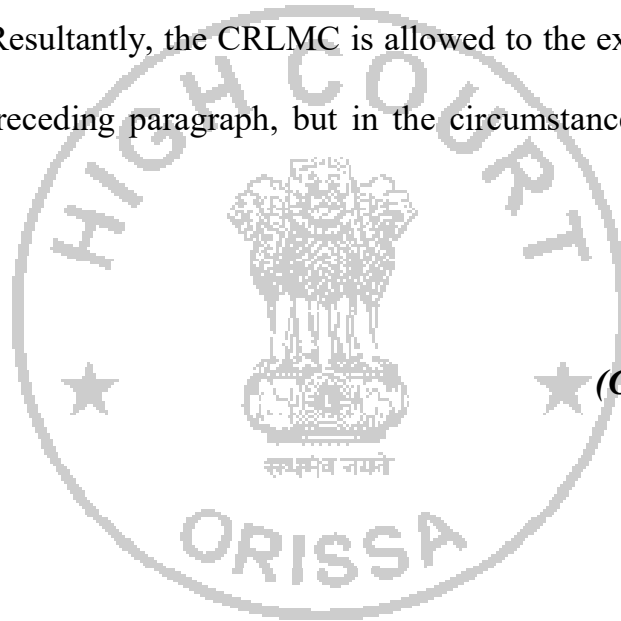
coerce her or her relatives to satisfy unlawful demands of dowry but, it was never the intention of legislature to prevent genuine settlement amongst the wife and husband by taking a hyper technical view that the offence is not compoundable which would be counterproductive and against the interest of women.

9.2. In view of the above facts and discussions made hereinabove, especially when the informant-wife is leading a happy conjugal life with her husband-opposite party no.3 and living happily with the petitioner and her in-laws, the criminal proceeding against the petitioner, OP No.3 and other in-laws would nothing but undue and unnecessary harassment to the parties and the continuation of trial thereon, would be a futile exercise of powers of the Court and thereby, further continuation of criminal proceeding would amount to an abuse of process of law. Further, in the aforesaid circumstances, it is neither fair nor in the interest of justice to expose the petitioner, OP No.3 and other in-laws to the rigmarole and tribulation of the ordeal of trial by allowing the criminal proceeding to continue. Thus, in order to secure the ends of justice, the criminal proceeding arising out of Chandbali P.S. Case No.90 of 2015 corresponding to G.R. Case

No.212 of 2015 is required to be quashed in exercise of inherent power U/S.482 of Cr.P.C.

10. It is, therefore, clarified that the order passed on 22.12.2015 by the learned J.M.F.C., Chandbali taking cognizance of offences U/Ss.498-A/294/406/506/34 of IPC read with Section 4 of D.P. Act, and consequently the criminal proceeding thereon against the petitioner and others are hereby quashed.

11. Resultantly, the CRLMC is allowed to the extent indicated in the preceding paragraph, but in the circumstance without any costs.



(G. Satapathy)
Judge

Kishore