

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.4080 of 2011

Ananda Nayak and another Petitioners
Mrs. Sushama Pradhan, Advocate

-Versus-

State of Odisha and another Opposite Parties
Mr. P.K.Pattanaik, AGA

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
11.03.2022

Order No.

12. 1. Heard learned counsel for the petitioners and learned counsel for the State.
2. Instant application under Section 482 of Cr.P.C. is filed by the petitioners seeking an order to quash the order of cognizance i.e. Annexure-1 and also the entire proceeding in C.T. Case No. 244 of 2010 arising out of Nilgiri P.S. Case No. 164 dated 4th August, 2010 pending in the file of learned SDJM, Nilgiri on the ground that both of them have married and maintaining a happy conjugal life and therefore, the criminal proceeding before the court below should be brought to an end in exercise of the inherent jurisdiction of the Court in order to do substantial justice.
3. Learned counsel Mrs. Sushama Pradhan appearing for the petitioners submits that after the alleged incident, petitioner No.2 married petitioner No.1 and both are staying together since then. In support of such a contention, an additional affidavit has been filed

sworn by petitioner No.1 indicating therein that petitioner No.2 on her own sweet will married him as per the Hindu rites and customs and both to be staying together and in the meantime, they have been blessed with two children, a female child born on 26th August, 2012 and second one, a male child on 6th December, 2015. The copies of birth certificates of both the children have been enclosed as Annexure-B series along with the aforesaid affidavit.

4. Mrs. Pradhan also refers to the statement of the victim-petitioner No.2 recorded under Section 164 Cr.P.C. and contended that nothing adverse alleged therein against the accused, namely, petitioner No.1 which rather shows that both were in a relationship and subsequently, she eloped with the petitioner No.1 and left for Mumbai and both stayed there for about seven to eight days. According to learned counsel for the petitioners, Mrs. Pradhan, since the parties are presently living together as spouses after their marriage, the fact which stands revealed from the additional affidavit filed by the petitioner No.1 and also the fact that both are blessed with two children, for the ends of justice and to restore peace and love in their conjugal life, proceeding in C.T. Case No. 244 of 2010 pending in the file of the learned SDJM, Nilgiri should be quashed.

5. Mr. Pattanaik, learned counsel for the State, on the other hand, submits that by the time of the alleged incident, which is of the year 2011, petitioner No.2 was a minor aged about 15 years and she was allegedly kidnapped by petitioner No.1 and as such, was removed from the lawful custody of her parents for which Nilgiri P.S. Case No. 164 of 2010 was registered under Section(s) 363/294/34 IPC. From the copy of the statement under Section 164 of Cr.P.C. that the petitioner No.2, it is revealed that she claimed her age to be 21 years by 26th April, 2012. In any case, assuming that petitioner No.2 was a minor at

the time of the alleged occurrence but considering her statement under Section 164 Cr.P.C. and the fact that she is married to petitioner No.1 and taking into account the additional affidavit filed by petitioner No.1 and the fact that they are blessed with two children, which is supported by copies of their birth certificates under Annexure-B series, the Court is of the humble opinion that in order to maintain peace in their conjugal life and being alive to the settled position of law as enunciated by the Supreme Court in **B.L.Joshi & Others Vrs. State of Haryana & Another** reported in (2003) 4 SCC 675, wherein, it has been held that in situations like present, the High Courts should exercise inherent jurisdiction under Section 482 of Cr.P.C. notwithstanding the fact that some of the offences are non-compoundable in nature and quash the criminal proceedings, it would be just and expedient in the interest of justice to terminate the proceeding in C.T. Case No. 244 of 2010 and accordingly, it is ordered.

6. In the result, CRLMC application stands allowed. As a necessary corollary to the criminal proceeding in C.T. Case No. 244 of 2010 pending in the file of learned SDJM, Nilgiri is hereby quashed.

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

(R.K. Pattanaik)
Judge