

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No. 1713 of 2020 & 1071 of 2022

CRLMC No.1713 of 2020

Sk. Taslim @ Sk. Babu Petitioner
Mr. Unmesh Chandra Jena, Advocate

-Versus-

State of Orissa and another Opposite Parties
Mr. S.S. Mohapatra, ASC, OP No.1
Mr. Amlan Sakti Paul, Advocate for OP No.2

AND

CRLMC No.1071 of 2022

Pinki @ Pinkey Bibi @ Khatoon @ Petitioners
Mahek @ Mehek and another
Mr. S.N. Mishra-4, Advocate

-Versus-

State of Odisha and another Opposite Parties
Mr. S.S. Mohapatra, ASC, OP No.1

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER

26.09.2022

Order No.

- 06.
1. Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for opposite party Nos.2 and 3.
 2. Though CRLMC No.1071 of 2022 was not in the list, on being mentioned by Mr. S.N. Mishra-4, the same is taken up on the special mention along with CRLMC No.1713 of 2020 for final disposal.
 3. In the above cases, the criminal proceedings in Special Case (POCSO) No.45 of 2019 arising out of Purunabazar P.S. Case No.19 of 2019 pending in the file of learned Sessions Judge-cum-Sessions

Judge, Bhadrak have been sought to be quashed on the ground of compromise due to marriage between the parties.

4. It is submitted that the father of the victim lodged a written report before the IIC, Purunabazar P.S., Bhadrak on 3rd February, 2019 wherein he stated that the petitioner in CRLMC No.1713 of 2020 kidnapped her minor daughter and confined her in a lonely place and when he asked her whereabouts to parents of the accused at the latter's residence, they threatened him with dire consequence. After the report was lodged, Purunabazar P.S. Case No.19 of 2019 was registered under Sections 363/366/376(2)(n)/376(2)/506/109 of IPC read with Section 6 of POCSO Act and finally, charge sheet has been submitted with the aforesaid offences.

5. It is contended that petitioner and opposite party No.2 have married in the meantime as per their rights and customs and staying together as husband and wife and they have been blessed with a male child and considering the aforesaid development, the proceeding in Special Case (POCSO) No.45 of 2019 should be quashed so also the CRLMC No.1076 of 2022 which has been filed by the petitioner No.1 and opposite party No.2 jointly.

6. Learned counsel for opposite party Nos.2 and 3 are present in Court and also admits the fact of marriage between the parties and opposite party No.2, namely, victim has filed an affidavit in Court today wherein it has been narrated that she is married to the petitioner as per the Muslim customs and also gave birth to a male child on 26th April, 2021.

7. The Court perused the affidavit along with its contents so also identify proof i.e. original Aadhar cards of the parties. The victim, opposite party No.2 has filed an affidavit stating therein that there has been a compromise and marriage between her and the petitioner and both are staying together as husband and wife and leading a happy conjugal life and blessed with a male child. In view

of the above, the Court is of the view that the criminal proceeding in Special Case (POCSO) No.45 of 2019 arising out of Purunabazar P.S. Case No.19 of 2019 pending in the court below should be quashed in the interest of justice. The Court also refers to the decision of the Apex Court 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. Further, it has been held therein that under certain circumstances notwithstanding the fact that offences are non-compundable, the proceedings could be quashed in exercise of jurisdiction under Section 482 Cr.P.C. In view of the settled position of law as cited supra, the Court is of the opinion that it is a fit case where such jurisdiction should be exercised in order to do complete justice to the parties. Accordingly, it is ordered.

8. Consequently, the criminal proceeding in Special Case (POCSO) No.45 of 2019 arising out of Purunabazar P.S. Case No.19 of 2019 pending in the file of learned Sessions Judge-cum-Sessions Judge, Bhadrak is hereby quashed.

9. With the above direction, the CRLMCs stand disposed of.

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

(R.K. Pattanaik)
Judge

U.K.Sahoo