

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3475 of 2013

Prahallad Behera and others

.... Petitioners
Mr. P.S. Nayak, Advocate

-Versus-

State of Odisha & Another

.... Opposite Parties
Mr. A.P. Das, ASC

CORAM:
JUSTICE R.K. PATTANAIK

ORDER
20.05.2022

Order No.

05.

1. Instant application under Section 482 Cr.P.C is at the behest of the petitioners for quashing of the criminal proceeding in G.R. Case No.1842 of 2013 arising out of Angul P.S. Case No. 695(34) of 2013 pending before the court of learned S.D.J.M. Angul on the stated grounds.

2. On 12th October, 2013, O.P.No.3, who is the father of the victim, namely, O.P.No.2 lodged an FIR at Angul P.S. alleging therein about kidnapping of his daughter by petitioner No.1 and other overt acts described therein, as a result of which, Angul P.S. Case No.695(34) was registered under Section 364-A read with 34 IPC. It is contended by the petitioners that petitioner No.1 and O.P.No.2 were in love and in a relationship which was opposed by O.P.No.3, for which, both left their houses to marry which was without the knowledge of respective parents and thereafter, they had a civil marriage solemnized on 8th October, 2013. In support of such a claim, a copy of the marriage certificate (Annexure-3) has been referred to. As per the contention of the petitioners, O.P. No.2 was a major by the time of the alleged marriage. In such view of the matter, it is contended that since the parties to the marriage were major and considering the fact that both are staying together,

the criminal proceeding should be quashed keeping in view their interest.

3. O.P.No.2 filed an affidavit dated 8th January, 2014 and the same is perused by the Court, wherein, she deposed that her date of birth is 16th November, 1990 and being a major girl and since was in a relationship with petitioner No.1, out of her sweet will, fled away to marry and the marriage was held on 8th October, 2013 and ever since then, both are leading a happy conjugal life. It has been further mentioned in the affidavit that O.P.No.3-father since belongs to an orthodox Marwari family was not inclined to accept the relationship and also her marriage with petitioner No.1, who is from odiya community and therefore, he out of anger, lodged the FIR.

4. From the copy of the CBSE certificate (Annexure-2), it is made to appear that O.P.No.2 is born on 16th November, 1990 and admittedly, by the time, the alleged occurrence took place, she was around 23 years old. From Annexure-3, the marriage between petitioner No.1 and O.P.No.2 is prima facie established. It does mean, O.P.No.2 was a major as on 12th October, 2013, the date on which, O.P.No.3 lodged the FIR (Annexure-1). In view of the affidavit filed by O.P.No.2, there is no escape from the conclusion that she out of her own eloped with petitioner No.1 in order to marry him and in fact, the marriage was held thereafter on 8th October, 2013.

5. Having regard to the above facts and settled position of law as enunciated by the Supreme Court in case of **B.S. Joshi and others Vrs. State of Haryana and another** reported in (2003) 4 SCC 675, wherein, it has been held that inherent jurisdiction may be exercised where the offences are non-compoundable by considering the fact that the dispute to be civil in nature, the Court is of the view that since the parties appear to be major and took a decision to marry each other and in fact, the marriage was

solemnized in the year 2013 before the Marriage Officer, Khurda at Bhubaneswar, in order to maintain and restore peace in their conjugal life, the criminal proceeding in G.R. Case No.1842 of 2013 should be quashed and accordingly, it is ordered.

6. In the result, application under Section 482 Cr.P.C. stands allowed. Consequently, the proceeding in G.R. Case No.1842 of 2013 arising out of Angul P.S. Case No.695 (34) dated 12th October, 2013 pending in the court of learned S.D.J.M., Angul is hereby quashed.

7. The CRLMC stands disposed of accordingly.

(R.K. Pattanaik)
Judge



TUDU