

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 1727 of 2022

Sushree Senapati Mohapatra

....

Petitioner

Mr.B.S.Tripathy, Advocate
and Mr. M.K.Rath, Advocate

-Versus-

State of Odisha & Another

....

Opposite Parties

Mr. Pradip Ku.Rout, AGA

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
26.08.2022

Order No.

- 05.
1. Heard learned counsel for the petitioner and learned counsel for the State and learned counsel for the opposite party No.2.
 2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner for quashing of the criminal proceeding in connection with C.T. Case No. 256 of 2022 arising out of Kharvelanagar P.S. Case No. 15 of 2022 pending in the court of learned S.D.J.M., Bhubaneswar on the grounds stated therein.
 3. Perused the F.I.R. which is at Annexure-1 besides a copy of the charge sheet i.e. Annexure-2.
 4. Learned counsel appearing for the petitioner submits that the husband of the petitioner had availed loan from HDFC Bank and thereafter defaulted in repayment subsequent thereto the F.I.R. was lodged as a result Kharvelanagar P.S. Case No. 15 of 2022 was registered under Sections 419/420/467/468/471 IPC. It is further

submitted that the petitioner's husband died during pandemic and thereafter, she repaid the dues to the Bank which is revealed from Annexure-3 and in fact, supported by an affidavit filed by the Bank which is at flag-C. It is, thus, contended that in view of the closure of the loan account, the fact which has been admitted by the Bank itself, the criminal proceeding which is pending before the learned court below in C.T. Case No. 256 of 2022 should be quashed in the interest of justice. While contending so, Mr. Tripathy relied upon the following judgments of the Apex Court, namely, **Nikhil Merchant Vrs. C.B.I. & Another** in Criminal Appeal No. 1302 of 2008 decided on 20th August, 2008 and **Smt. Rekha Jain & Another Vrs. State of Uttar Pradesh and Others** in Criminal Appeal No. 136 of 2022 disposed of on 3rd February, 2022 and further contended that in similar circumstances, the Supreme Court have been pleased to quash the proceedings. Mr. Tripathy contends that in the present facts of the case, since the entire dues of the loan was paid back by the petitioner, this Court in such situation should quash the criminal proceeding in exercise of inherent jurisdiction under Section 482 of Cr.P.C.

5. Learned counsel for opposite party No.2 submits that the dues vis-à-vis the petitioner is cleared and there has been a settlement between the parties and in view of such settlement, the Bank does not want to proceed against her in connection with Kharvelanagar P.S. Case No. 15 of 2022 dated 13th January, 2022.

6. Learned counsel for opposite party No.2 refers to the affidavit dated 25th July, 2022. The learned counsel for the State submits that in view of the aforesaid development, necessary orders may be passed keeping in view of the settled position of law as laid down by the Supreme Court.

7. The Court perused the Annexure-3 series which has been issued by the HDFC Bank and also the counter affidavit filed by opposite party No.2 which clearly indicates that the loan account has been closed on payment of the dues by the petitioner and therefore, the Bank which is not inclined to proceed against her in connection with the case which is pending before the court below C.T. Case No. 256 of 2022.

8. Having regard to the settled position of law as enunciated by Apex Court in **Nikhil Merchant** wherein the Apex Court held that keeping in view the guidelines and parameters settled in **B.S.Joshi & Others Vrs. State of Haryana & Another** reported in (2003) 4 SCC 675 and settlement reached at between the parties therein observed that the proceeding pending before the court below should be quashed as its further continuance would be a futile exercise. Similar view has been expressed in the other case of **Smt. Rekha Jain** wherein the offences under which the case was registered was under Sections 420/467/468/471/ 120-B IPC which is similar to the present case. Having regard to the facts and position of law and considering the submissions of the learned counsel for the respective parties, the Court is of the view that as the entire dues has been paid by the petitioner and in the meantime, there has been a settlement reached at between the parties, the Court is inclined to exercise its inherent jurisdiction under Section 482 Cr.P.C. to quash the criminal proceeding pending before the learned court below.

9. Accordingly, it is ordered.

10. In the result, CRLMC stands allowed.

11. Consequently, the proceeding in C.T. Case No. 256 of 2022 arising out of Kharvelanagar P.S. Case No. 15 of 2022 pending in the court of learned S.D.J.M., Bhubaneswar is hereby quashed.

(R.K. Pattanaik)
Judge

I.A. No. 1362 of 2022

06.

1. Learned counsel Mr. Tripathy submits that certain documents are lying at the disposal of the Bank which should be returned to the petitioner. No objection is offered from Mr. Shukla, learned counsel appearing for opposite party No.2 in that regard.

2. In view of the above, the Bank is directed to return all the original documents lying at its disposal to the petitioner forthwith on so being applied.

3. The I.A. is disposed of.

(R.K. Pattanaik)
Judge