

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1742 of 2022

Smt. Manasi Mohapatra @ Manasi
Naha

....

Petitioner

Mr. P.K.Dhal , Advocate

-Versus-

State of Odisha & Another

....

Opposite Parties

Mr. T.K.Praharaj, SC

Mr. P.K.Beura, Advocate for O.P.No.2

Mr. R.K.Dash, Advocate for O.P.No.3

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

14.10.2022

Order No.

02.

1. Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for opposite party Nos.2 & 3.
2. The present challenge is as to the criminal proceeding pending before the court of learned Additional District Judge-cum-Special Court, Cuttack in connection with Special G.R. Case No. 34 of 2016 corresponding to Banki P.S. Case No. 120 of 2016 and its quashment on the ground of compromise and marriage between the parties.
3. Perused the copy of the F.I.R. as at Anneuxre-1.
4. In fact, pursuant to the lodging F.I.R., Banki P.S. Case No.120 of 2016 was registered under Sections 376(2)(n) IPC and Section 4,6 of the POCSO Act which ultimately led to the filing of

the charge sheet, a copy which is at Annexure-3. Learned counsel for the petitioner submits that in the meantime, the petitioner and opposite party No.2 have married and settled in the life and also blessed with a child. While claiming so, the affidavit filed by opposite party No.2 as well as opposite party No.3 have been referred to by the learned counsel for the petitioner. Under the above circumstances, since because the parties have married and staying together as husband and wife and even blessed with a child, learned counsel for the petitioner submits that it is a fit case where inherent jurisdiction should be exercised to quash the proceeding pending before the court below.

5. Mr. Praharaj, learned counsel for the State submits an objection for quashing of the criminal proceeding on the ground that the petitioner is alleged of having committed rape and charge sheeted under Section 376(2)(n) IPC and Section 4,6 of the POCSO Act.

6. The petitioner, opposite party No.2 as well as opposite party No.3, namely, the informant are present in Court with their identity proof. In fact, the petitioner and opposite party No.2 have produced the original Aadhar Cards for the purpose of their identification. The said Aadhar Cards are perused by the Court.

7. It is submitted by the learned counsel for the petitioner that after marriage of the petitioner and opposite party No.2 and since both are leading a happy conjugal life, in the best interest of the parties, the criminal proceeding in Special G.R. Case No. 34 of 2016 pending before the court of learned Special Court should be brought to an end.

8. The Court perused the affidavits filed by opposite party Nos. 2 & 3. As per the affidavit of opposite party No.2, it is made to understand that she married the petitioner on 24th February, 2021 at a temple which was on the consent of the respective parties and in the presence of relatives and friends. The said fact is also admitted by opposite party No.3.

9. In support of such marriage between the parties, a receipt of the temple in question is produced and also a 'Bibaha Bandhan Chukti Patra'. In fact, copies of the said documents have been produced by the learned counsel for the petitioner in support of marriage on account of the alleged settlement. In any view of the matter, the parties are in Court and on being asked, admitted about the fact of marriage solemnized in 2021.

10. Having regard to the facts and submissions of the learned counsel for the petitioner and opposite party Nos. 2 & 3, the Court is of the view that notwithstanding the petitioner having been charge sheeted under Section 376(2)(n) and Section 4,6 of POCSO Act but for the fact that both are married and settled in their life and even blessed with a child, the Court is of the opinion that in the peculiar facts and circumstances of the case, the criminal proceeding which is pending before the court below should be quashed. The Court is of the view that unless the proceeding is quashed, it is likely to bring a lot of hardship for the spouses in particular and if allowed to continue, may even lead to disturbance in their marital life and such view is subscribed keeping in view the settled position of law as laid down by the Supreme Court in the case of **B. S. Joshi & Others Vs. State of Haryana & Another** reported in (2003) 4 SCC 675 with regard to exercise of jurisdiction vis-à-vis quashing of the criminal proceeding. In other words, having regard to the facts of the case

and subsequent development as to the marriage between the petitioner and opposite party No.2 and both being in a marital relationship and staying together as husband and wife leading a peaceful conjugal life, the Court is of the conclusion that the criminal proceeding which is pending before the court below should be quashed as no worthy purpose would be served with its continuation.

11. Accordingly, it is ordered.

12. In the result, the CRLMC stands allowed. As a necessary corollary, the criminal proceeding in Special G.R. Case No. 34 of 2016 corresponding to Banki P.S. Case No. 120 of 2016 pending in the court of learned Additional District Judge-Special Court, Cuttack is hereby quashed.

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

(R.K. Pattanaik)
Judge