

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2202 of 2022

Santosh Swain @ Santosh Kumar Swain
& others

Petitioner

Mr. Prakash Kumar Mohanty, Advocate

-Versus-

State of Odisha & Another

.... Opposite Parties

Mr. S.S.Mohapatra, ASC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
21.10.2022

Order No.

- 01.
1. Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for opposite party No.2, namely, the informant.
 2. Instant petition under Section 482 of Cr.P.C. is filed by the petitioners challenging the order of cognizance dated 30th April, 2021 under Annexure-1 as well as the criminal proceeding in connection with G.R. Case No. 128 of 2021 corresponding to Jharigaon P.S. Case No. 28 of 2021 pending before the court of learned JMFC, Jharigaon, Nabarangpur on the ground of compromise and marriage between the parties in the meantime.
 3. Perused a copy of the impugned order which is at Annexure-1 and also copy of the chargesheet as at Annexure-3.

4. In fact, the learned court below has taken cognizance of offence under Sections 376(2)n IPC and other allied offences against the petitioners.

5. Learned counsel for the petitioners submits that petitioner No.1 and opposite party No.2 have married in the meantime and in support of such marriage, he refers to the Marriage Certificate which is at Annexure-4. The original Marriage Certificate is produced before the Court today by the learned counsel for the petitioners. It is submitted that in view of the marriage between the parties in the month of January, 2022 and the fact that petitioner No.1 and opposite party No.2 are residing together and leading a happy marital life, the criminal proceeding which is pending before the learned court of JMFC, Jharigaon should be quashed in the interest of justice. Learned counsel for opposite party No.2 admits the fact of compromise and marriage as well.

6. Petitioner No.1 as well as opposite party No.2 appeared in Court today and on being asked, both of them admitted about their marriage having taken place recently.

7. Mr. Mohapatra, learned counsel for the State submits that the offence under Section 376(2) n IPC is non-compoundable in nature and therefore, he objects to the quashing of the criminal proceeding even after the marriage and compromise reached at between the parties.

8. The Court perused the original Marriage Certificate so also the affidavit filed by opposite party No.2. From the affidavit, it is made to appear that opposite party No.2 after marriage with

petitioner No.1, since both are residing as husband and wife, therefore, she is not inclined to pursue the criminal proceeding arising out of Jharigaon P.S. Case No. 28 of 2021.

9. Taking into account the marriage between the parties which is admitted by them being physically present in Court and supported their Marriage Certificate copy of which is at Annexure-4, the Court is of the view of that notwithstanding one of the offences under Section 376(2)n IPC to be non-compoundable in nature, the criminal proceeding pending before the court below should be brought to an end in the interest of the parties, more particularly, petitioner No.1 and opposite party No.2.

10. The Court is aware of the settled position of law laid down by the Apex Court in **B.S.Joshi & Others Vrs. State of Haryana & Another (2003) 4 SCC 675** wherein it has been held that inherent jurisdiction Section 482 of Cr.P.C. as well as power under Article 226 of the Constitution may be exercised in peculiar facts and circumstances of the case especially where the dispute is matrimonial or civil or of similar nature. The Court is of the opinion that it is a fit case where such jurisdiction should be exercised so as to terminate the proceeding pending between the parties before the court of learned JMFC, Jharigaon. In fact, after such a settlement inter se parties, no fruitful purpose would be served to allow continuance of the criminal proceeding and therefore, it should be quashed.

11. Accordingly, it is ordered.

12. In the result, CRLMC stands allowed.

13. Consequently, the criminal proceeding in G.R. Case No. 128 of 2021 corresponding to Jharigaon P.S. Case No. 28 of 2021 pending before the court of learned J.M.F.C., Jharigaon, Nabarangpur is hereby quashed.

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

(R.K. Pattanaik)
Judge

Kabita

