

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2265 of 2022

Arun Kumar Mishra and Others

Petitioners

Mr. S. Mohanty, Advocate

-Versus-

State of Odisha and Another

.... Opposite Parties

Mr. S. Mishra, ASC

Mr. T.K. Mishra, Advocate for O.P.No.2

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

14.11.2022

Order
No.

05.

1. Heard learned counsel for the petitioners and learned ASC for the State opposite party No.1 besides learned counsel for the opposite party No.2.
2. Instant petition under Section 482 Cr.P.C. is filed at the behest of the petitioners for quashing of the FIR corresponding to Jeypore Mahila P.S. Case No.10 dated 18th February, 2018 registered under Sections 498-A, 294, 323 and 506 read with 34 IPC and Section 4 of the Dowry Prohibition Act which is with reference to G.R. Case No.163 of 2018 pending in the file learned S.D.J.M., Jeypore.
3. Learned counsel for the petitioners as well as opposite party No.2 submit that there has been divorce between petitioner No.1 and opposite party No.2 in the meantime by approaching the learned Judge Family Court, Jeypore at Koraput in C.P. No.8 of 2021 and considering the same, the criminal proceeding which is pending before the court below should be quashed in the interest of justice. While contending so, Mr. Mohanty, learned counsel appearing for the petitioners refers to a copy of the judgment dated

13th September, 2021 of the Judge, Family Court, Jeypore, Koraput in C.P. No.8 of 2021.

4. Mr. Mishra, learned ASC for the State on the other hand submits that some of the offences are non-compoundable in nature and therefore, the criminal proceeding should not be quashed.

5. A copy of the judgment as at Annexure-4 is perused by the Court, whereby, the Family Court dissolved the marriage between petitioner No.1 and opposite party No.2 in terms of Section 13-B of the Hindu Marriage Act, 1955. In other words, the estranged spouses approached the Family Court for a decree of divorce by mutual consent, which was allowed vide Annexure-4.

6. Opposite party No.2, namely, the informant is present in Court through virtual mode and on being asked, she offered no objection if the criminal proceeding is quashed on account of divorce from the petitioner No.1.

7. Identity proof of opposite party No.2, such as, a copy of the Aadhar Card is produced before the Court.

8. In support of the fact of amicable settlement and divorce between the parties, opposite party No.2 has filed an affidavit which is at Flag-C and the same is also perused by the Court. As per the affidavit, opposite party No.2 has stated that in view of the mutual divorce of decree which has been obtained from the learned Family Judge subsequent to an amicable settlement, she does not any objection, if the proceeding pending before the court below is quashed.

9. Having regard to the aforesaid development and considering the submissions of the learned counsel for the respective parties and keeping in view the settled position of law as laid down by the Supreme Court in the decision of **B.S. Joshi and others Vrs.**

State of Haryana and another (2003) 4 SCC 675, the Court is of the considered opinion that the litigation between the parties pending before the court of S.D.J.M., Jeypore should be brought to an end in the interest of justice. In fact, the Court is of the view that as the parties dissolved their marriage approaching the Family Court, in order to ensure peace and stability in their lives, the criminal proceeding in G.R. Case No.163 of 2018 pending before the learned S.D.J.M., Jeypore should be terminated.

10. Accordingly, it is ordered.

11. In the result, CRLMC stands allowed. Consequently, the criminal proceeding in G.R. Case No.163 of 2018 arising out of Jeypore Mahila P.S. Case No.10 of 2018 pending before the court of learned S.D.J.M., Jeypore is hereby quashed.

12. Urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge

TUDU