

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1852 of 2015

Bhola @ Md. Alamgir Sk.

....
Mr. S.S. Pradhan, Advocate

Petitioner

-Versus-

State of Odisha and another

....
Mr. M.R.Mishra, ASC

Opposite Parties

CORAM:
JUSTICE R.K. PATTANAIK

ORDER
05.08.2022

Order No.

05.

1. Heard learned counsel for the petitioner and learned counsel for the State.

2. The present challenge is at the instance of the petitioner invoking Section 482 Cr.P.C. with regard to the continuation of the criminal proceeding in G.R. Case No.500 of 2014 arising out of Nandipada P.S. Case No.89 of 2014 pending in the court of learned S.D.J.M., Anandapur on the grounds stated therein.

3. Learned counsel for the petitioner submits that at the time of the alleged incident dated 13th September, 2014 for which Nandipada P.S. Case No.89 of 2014 was registered under Sections 365/294/506 read with 34 IPC, the victim who is the daughter of the informant was a major aged about 18 years and she in her statement recorded under Section 164 Cr.P.C. claimed to have voluntarily left her parental house and jointed the company of the petitioner and that she was not being kidnapped considering which further proceeding of the criminal case

before the court below would be an the abuse of process and hence, it should be quashed in the interest of justice.

4. On the other hand, the learned counsel for the State submits that in any case charge sheet has already been filed against the principal accused, namely, the petitioner under Section 365/294/506 IPC.

5. On a bare perusal of the F.I.R., it is made to appear that the victim was 18 years of age by the time of the occurrence which means she was a major by then. A copy of the F.I.R. is at Annexure-1 and as regards, the statement of the victim recorded under Section 164 Cr.P.C., the certified copy of which is at Annexure-2, it is made to understand that she did not allege anything adversely against the accused and claimed to have voluntarily left her house with him. Nevertheless the age of the victim is stated to be 18 years, which is admitted by the informant mother and also revealed from the statement under Section 164 Cr.P.C.

6. Considering the submissions of the learned counsel for the respective parties and the victim's version under Section 164, Cr.P.C. and that she was a major at the time of occurrence being 18 years of age which has even been admitted by her mother, the Court is of the view that the criminal proceeding in G.R. Case No.500 of 2014 should not be allowed to continue. The Court finds that the victim a major by the time of incident appears to have eloped with the petitioner, whereafter, the F.I.R. was lodged by the informant alleging kidnapping by the accused though admitting that she was 18 years of age by then. The Court therefore finds no reason or purpose which would be served to allow the criminal proceeding to continue against the petitioner. In other words, in the interest of justice, such proceeding should be quashed and rather its continuation would amount to an abuse of process of law.

7. Accordingly, it is ordered.

8. In the result, the CRLMC stands allowed. Consequently, the proceeding in G.R. Case No.500 of 2014 arising out of Nandipada P.S. Case No.89 of 2014 pending in the court of learned S.D.J.M., Anandapur is hereby quashed.

(R.K. Pattanaik)
Judge

KC Bisoi

