

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3003 of 2017

Bhaskar Nayak & others. ***Petitioners***

M/s. Sanatan Das, M.K. Sahu, Advocates

-versus-

State of Odisha & another. ***Opposite Parties***

Addl. Standing Counsel – For the State

**CORAM:
JUSTICE S. PUJAHARI**

**ORDER
17.02.2022**

**Order
No.**

09. **1.** This is an application filed under Section 482 of Cr.P.C. by the petitioners seeking for quashment of the order dated 10.08.2017 passed by the learned S.D.J.M., Bhubaneswar in C.T. Case No.4750 of 2014, corresponding to Bhubaneswar Mahila P.S. Case No.371 dated 08.12.2014, vide which cognizance has been taken of the offences under Sections 498-A, 323, 506, 406/34 of IPC read with Section 4 of the Dowry Prohibition Act against the accused-petitioners.

2. Heard the learned counsel for the petitioners and the learned counsel appearing for the State. None appeared for the opposite party no.2.

3. Perused the relevant papers on record vis-à-vis the contentions raised by the petitioners.

4. The case aforesaid has been registered pursuant to the F.I.R. lodged by the opposite party no.2, and on the basis of the charge-sheet filed by the police, the learned S.D.J.M., Bhubaneswar has taken cognizance of the offences indicated above against the petitioners. Admittedly, the marriage of the petitioner no.1 with the opposite party no.2 was solemnized on 11.07.2012 at Bhubaneswar, and it is alleged that while both of them were staying together at Bangalore, i.e., the working place of the petitioner no.1, the matrimonial dispute arose, and the opposite party no.2-wife was subjected to the alleged criminality. The petitioner nos.2 and 3 are brothers of the petitioner no.1-husband and the petitioner no.4 is the wife of the petitioner no.3. Vide the F.I.R., the opposite party no.2 alleged, inter-alia,

that she was subjected to dowry demand, and the petitioner no.1 owing to his illicit relationship with the petitioner no.4 mounted torture on her. The petitioners assail the impugned order basically on twin grounds. According to them, no part of the alleged incident / cause of action having arisen at Bhubaneswar, the learned S.D.J.M., Bhubaneswar lacked territorial jurisdiction to take cognizance of the alleged offences. By citing some previous legal actions and bringing counter allegation that the opposite party no.2 withdrew herself from the Society of the petitioners without any reasonable excuse and that she was averse to the spending made by the petitioner no.1 for medical treatment of his ailing parents, the petitioners contend that the present case has been falsely foisted in order to harass them.

5. A reading of the FIR would show that there was no disturbance in the matrimonial life and conjugal relationship of the petitioner no.1 and the opposite party no.2 until they proceeded to Bangalore. The sum and substance of the accusation made by the opposite

party no.2 is that at Bangalore the petitioner no.1 demanded dowry, developed illicit relationship with the petitioner no.4 and treated her with cruelty. As indicated in the F.I.R. itself, while being at Bangalore she had lodged a report against the petitioner no.1 at HAL Police Station, Bangalore, and the petitioner no.1 had also filed a case under Section 9 of the Hindu Marriage Act in the court of the Addl. Family Judge at Bangalore. As it further reveals, no investigation was conducted by Bangalore Police on the FIR lodged by the opposite party no.2, inasmuch as police made a Station Diary entry and advised the parties for a compromise. The case filed by the petitioner no.1 was also withdrawn, as indicated in the F.I.R.

6. In view of the facts stated above as well as the substance of allegation made in the FIR, this Court finds merit in the contention of the petitioners as to the lack of territorial jurisdiction of the learned S.D.J.M., Bhubaneswar to entertain the case.

7. To reiterate, before registration of the present case, both the parties had taken resort to litigation / legal course at Bangalore. It further appears that the opposite party no.2 had also approached the Judge, Family Court, Bhubaneswar by filing a petition under Section 13(1) of the Hindu Marriage Act vide C.P. No.304 of 2016, i.e., before lodging the FIR at Mahila Police Station, Bhubaneswar. The aforesaid petition has been allowed by the learned Judge, Family Court, Bhubaneswar vide the judgment dated 22.08.2019, by dissolving the marriage of the parties with a direction to the present petitioner no.1 to pay Rs.10 lacs to the opposite party no.2 towards permanent alimony. In such premises, even though the Court at Bhubaneswar can not be said to have no jurisdiction to entertain the criminal prosecution in view of the law laid down in the case of **Rupali Devi vrs State of Uttar Pradesh and others**, reported in AIR 2019 S.C. 1790, but considering the development made, the Court at Bangalore was not proceeded with and the F.I.R. was

withdrawn, this Court is inclined to interfere with the impugned order, in the interest of justice.

8. In the result, the CRLMC is allowed. The impugned order is quashed as well as the consequential proceeding in C.T. Case No.4750 of 2014.

9. Urgent certified copy of this order be granted on proper application.

(S.Pujahari)
Judge

MRS

