

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2995 of 2019

Ajaya Kumar Rout and Others

Petitioners

Mr. S.K. Baral, Advocate

-Versus-

State of Odisha and Another

.... Opposite Parties

Mr. S. S. Mohapatra, ASC

Mr. G. Khilar, Advocate for O.P. No.2

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

28.10.2022

Order
No.

09.

01. Heard learned counsel for the petitioners and learned counsel for the State besides learned counsel for opposite party No.2.

02. Instant petition under Section 482 Cr.P.C. is filed by the petitioners for quashing of the criminal proceeding in connection with ICC Case No.179 of 2018 pending before the court of learned J.M.F.C., Chandikhole on the ground of compromise between the parties.

03. A copy of complaint petition is at Annexure-1 and the same is perused by the Court. In fact, opposite party No.2 filed a complaint with an allegation of ill-treatment by in-laws, whereupon, the learned J.M.F.C., Chandikhole passed the impugned order under Annexure-2 taking cognizance of the offences after recording the initial statement under Section 200 Cr.P.C. of the complaint and holding an enquiry under Section 202 Cr.P.C.

04. Learned counsel for the petitioners submits that opposite party No.2 filed an affidavit which is at Flag-B and claimed about the settlement of the matrimonial dispute. It is further submitted that in the meantime there has been a mutual decree of divorce

obtained by the parties in C.P. No.302 of 2018 which was pending by the time the affidavit dated 9th December, 2019 was filed by opposite party No.2.

05. Learned counsel for the opposite party No.2 admits the fact of compromise and it is informed to the Court that opposite party No.2 has remarried and her whereabouts is not known, however, the fact of compromise is claimed with reference to the joint affidavit filed by the petitioners as well as opposite party No.2 which is at Flag-B. Mr. Mohapatra, learned ASC on the other hand submits that the physical presence of opposite party No.2 should be ensured. It is further submitted that there was an instruction received from the IIC, Kuakhia P.S. in the year 2020 stating therein the fact of settlement of dispute. The said correspondence received by the office of the AG in the year 2022 is at Flag-B for Court's perusal. In fact, the IIC, Kuakhia P.S. informed the office of the AG by a letter dated 28th January, 2020 that parties herein compromised the matter and had submitted an application before the court below in the other case i.e. G.R. Case No.853 of 2016.

06. Learned counsel for the petitioners as well as learned counsel for opposite party No.2 submit that in view of the compromise and settlement reached at between the parties and that mutual divorce has already been obtained by the parties in C.P. No.302 of 2018, no fruitful purpose would be served to allow continuation of the criminal proceeding in ICC Case No.179 of 2018 and hence, it should be quashed in the interest of justice.

07. In view of the aforesaid development and considering the affidavit filed by opposite party No.2 individually and jointly with her husband which are on record and recording the submission of learned counsel for the petitioners that there has been a divorce decree in C.P. No.302 of 2018, the Court is of the view that the criminal proceeding pending before the court of learned J.M.F.C., Chandikhole should be brought to an end and terminated. The

Court is aware of the settled position of law regarding the quashing of the criminal proceeding in exercise of inherent jurisdiction as laid down by the Apex Court in **B.S. Joshi and others Vrs. State of Haryana and another (2003) 4 SCC 675** and plethora other decisions and concludes that it is a fit case where the criminal proceeding in ICC Case No.179 of 2018 should be quashed in order to bring peace and stability in the lives of the parties involved.

08. Accordingly, it is ordered.

09. In the result, CRLMC stands allowed. Consequently, the criminal proceeding in ICC Case No.179 of 2018 pending in the file of learned J.M.F.C., Chandikhole is hereby quashed.

10. An urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge

TUDU

