

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No.2716 of 2022

Santosh Kumar Behera

....

Petitioner

Mr. S.S.Ray-2, Advocate

-Versus-

State of Odisha and another

....

Opposite Parties

Mr.T.K.Praharaj, SC

Mr. Ashok Kumar Behera-2, Advocate for O.P.No.2

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

09.12.2022

Order No.

02.

1. Heard learned counsel for the petitioner, Mr. Praharaj learned counsel for the State and learned counsel for opposite party No.2.

2. Instant petition Section 482 Cr.P.C. is filed by the petitioner for quashing of the criminal proceeding in connection with G.R. Case No. 86 of 2017 arising out of Aska P.S. Case No. 40 of 2017 pending in the file of learned JMFC, Aska on the ground of compromise between the parties.

3. Perused the copy of the impugned order which is at Annexure-1 besides the F.I.R. i.e. Annexure-2.

4. Learned counsel for the petitioner and opposite party No.2 submits that the deceased committed suicide on account of family dispute which is revealed from the statements of the witnesses recorded under Section 161 Cr.P.C., copies of which are at Annexure-3 series. It is further submitted that the petitioner is

looking after the wellbeing of the children, who are staying with him at present. There is no dowry demand or torture alleged by the informant, who is also present in Court and filed an affidavit to that effect and under the above circumstances, it is submitted that the criminal proceeding which is pending before the learned court below in G.R. Case No. 86 of 2017 should be quashed in the interest of justice.

5. The affidavit filed by opposite party No.2 is perused which is at flag-B. On a reading of the said affidavit of the informant, the Court finds that on interventions of the relatives and the village gentries, the matter has been amicably settled between the parties. In view of the amicable settlement reached at between the parties as per the affidavit, opposite party No.2 is not inclined to proceed further against the petitioner. On being asked, opposite party No.2 submits that the children are with the petitioner and they are being properly looked after by her son in-law, who has re-married in the meantime.

6. Mr. Praharaj, learned counsel for the State interacted with opposite party No.2 to ascertain as to whether the children are properly look after and maintained by the petitioner and she replied in the affirmative and at the same time, Mr. Praharaj, apprises that the offences are non-compoundable in nature which should be kept in mind before the criminal proceeding is quashed by the court.

7. The Court is alive to the settled position of law enunciated by the Supreme Court in **B.S.Joshi & Others Vrs. State of Haryana & Another (2003) 4 SCC 675** and the limitations in exercise of inherent jurisdiction under Section 482 Cr.P.C. In the present case,

the Court perused the statements of the witnesses as at Anneuxre-3 series and finds that there was disturbance in the family of the deceased and she was not inclined to stay with her parent's in-law and in that connection, the petitioner said to have ill-treated and assaulted her on many occasions. In fact, there is no allegation of any dowry related torture meted out to the victim. In the meantime, the chargesheet has been filed under Section 306 IPC. The death of the deceased is suicidal in nature as she poured kerosene on her body and burnt herself.

8. Having regard to the above facts and affidavit of opposite party No.2 and in view of the compromise between the parties and keeping in view the interest of the children, who are presently with the petitioner claimed to have been properly looked after by the latter, the Court is of the view that in the peculiar facts and circumstances of the case, the criminal proceeding pending before the court below should be quashed in order to restore harmony and stability in the lives of the children, in particular which is the paramount consideration at present.

9. Accordingly, it is ordered.

10. In the result, CRLMC stands allowed. Consequently, the criminal proceeding pending in the file of learned JMFC, Aska in connection with G.R. Case No. 86 of 2017 arising out of Aska P.S. Case No. 40 of 2017 is hereby quashed.

11. Urgent certified copy of this order be issued as per rules.

(R.K. Pattanaik)
Judge