

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2788 of 2022

Jibananda Kumbhar

....

Petitioner

Mr. Julu Khansama, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. Sitikanta Mishra, ASC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER
21.11.2022

Order No.

03.

1. Heard learned counsel for the petitioner and Mr. Mohapatra, learned counsel for the State.

2. Prayer in the present case is for quashing of the criminal proceeding in C.T. Case No. 229 of 2021 arising out of Baunsuni P.S. Case No. 81 of 2021 pending in the file of learned SDJM, Boudh on the ground of compromise between the parties.

3. A copy of the F.I.R is at Anneuxre-1 and the same is perused by the Court.

4. Learned counsel for the petitioner submits that initially the informant lodged the F.I.R. for which Baunsuni P.S. Case No.55 was registered on 19th May, 2018 under Section 376(2)(n) IPC and Section 4 & 6 of POCSO Act, wherein, the petitioner was charge sheeted and he faced trial which however ultimately resulted in an order of acquittal in Special Case No. 13 of 2018 by judgment dated 1st March, 2021 of the court of learned Additional Sessions Judge-cum-Special Judge, Boudh, a copy of which is at Annexure-4.

5. It is contended that at present the informant is married elsewhere and she does not have any objection if the criminal proceeding is quashed in view of the compromise between her and the petitioner.

6. Mr. Mishra, learned counsel for the State submits that some of the offences are not compoundable in nature and therefore, under the circumstances, the criminal proceeding should not be quashed.

7. The copy of the judgment dated 1st March, 2021 is at Annexure-4 and the same is perused by the Court. In fact, the informant, in that case, turned hostile, as a result of which, the learned Sessions court had to acquit the petitioner of the charges leveled against him. It is made to appear that there has been a compromise between the parties especially after the marriage of the informant elsewhere.

8. In support of such compromise and marriage of the informant, in fact, a notary affidavit is filed which is at flag-B for the Court's perusal.

9. On being asked, the informant submits that she does not have any objection, if the criminal proceeding is quashed as she already married elsewhere. In support of her identity proof, the informant produced her original Aadhar Card. So also the original Aadhar Card of the petitioner is submitted to the Court for its perusal.

10. Having regard to the above facts and order of acquittal dated 1st March, 2021 in Special Case No. 13 of 2018, whereafter, on the strength of F.I.R. lodged, Baunsuni P.S. Case No. 81 of 2021 was registered under Section 493 IPC and other allied offences and taking into account, the marriage of the informant and leading a happy

marital life at present, the Court is of the view that extra-ordinary jurisdiction should be exercised in the present case so as to quash the criminal proceeding pending before the learned SDJM, Boudh in C.T. case No. 229 of 2021. In order to avoid further disturbance in the marital life of informant in particular and to bring peace and stability in her life, the Court is of the view that jurisdiction Section 482 of Cr.P.C. is required to be exercised. The above view is subscribed from the decision of the Apex Court in **B.S.Joshi & Others Vrs. State of Haryana & Another (2003) 4 SCC 675**, wherein, it has been held and observed that notwithstanding the offences not to be compoundable, inherent or writ jurisdiction may be exercised in order to do complete justice to the parties. In fact, after such a compromise, no fruitful purpose would be served to allow continuance of the criminal proceeding and therefore, it should be quashed.

11. Accordingly, it is ordered.
12. In the result, CRLMC stands allowed.
13. Consequently, the criminal proceeding C C.T. Case No. 229 of 2021 arising out of Baunsuni P.S. Case No. 81 of 2021 pending in the file of learned SDJM, Boudh is hereby quashed.
14. Urgent certified copy of this order be issued as per rules.

(R.K. Pattanaik)
Judge