

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1900 of 2021

Ararti Modi and Others

Petitioners

Mr. A. Mishra, Advocate

-Versus-

State of Odisha and Another

.... Opposite Parties

Mr. T.K. Praharaj, SC

Mr. B.S. Dasparida, Advocate for O.P. No.2

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

31.10.2022

Order  
No.  
07.

1. Heard learned counsel for the petitioners and learned counsel for the State besides learned counsel for opposite party Nos.2 and 3.

2. In the instant case inherent jurisdiction under Section 482 Cr.P.C. is invoked by the petitioner with a prayer for quashing of the D.V. proceeding pending before the court of learned J.M.F.C., Soro in D.V. Misc. Case No.86 of 2019 on the grounds inter alia that same is not tenable in law and thus, liable to be interfered with and set aside in the interest of justice.

3. Learned counsel for the petitioners submits that even after considering the petition filed by the aggrieved wife, namely, opposite party No.2, no case is really made out against the petitioner. That apart it is submitted that nowhere in the petition moved before the learned J.M.F.C., Soro in D.V. Misc. Case No.86 of 2019, there is any mention with regard to the permanent or temporary residence of opposite party No.2, namely, the aggrieved wife which is statutorily required in terms of Section 27(1) (a) of the

Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as 'the DV Act'). On such grounds, learned counsel for the petitioner submits that the D.V. proceeding which is pending before the court of learned J.M.F.C., Soro is not maintainable and hence to be quashed.

4. Learned counsel for opposite party Nos.2 and 3 submits that there are allegations in the petition in so far as the D.V. proceeding is concerned and the circumstances under which the opposite party No.2 was subjected to ill-treatment and domestic violence and about being finally driven out by her in-laws stand described therein and therefore, it cannot be said that no case at all is made out.

5. Court perused the copy of the petition in D.V. Misc. Case No.86 of 2019 as at Annexure-3. From the averments of the petition, it is made to reveal that opposite party No.2 alleged ill-treatment barely two months after her marriage. In fact, opposite party No.2 alleged manner in which she was subjected to ill-treatment as there was a demand of Rs.4 lac and other items which could not be fulfilled due to her father's poor financial condition and the entire of the domestic violence which she was meted out in the hands of the petitioner has been described by her in the petition. The Court does not find any merit in the contention of the learned counsel for the petitioner that the averments do not make out a case on a bare reading of Annexure-3.

6. That apart, it is claimed that since opposite party No.2 is not either a permanent or temporary resident of Soro, there was no cause of action to entertain the D.V. proceeding by the learned court below. Section 27 of the D.V. Act is referred to by the learned counsel for the petitioner by contending that the aggrieved person,

namely, opposite party No.2 should have to be a permanent or temporary resident so as to invoke the jurisdiction of the learned J.M.F.C., Soro. However, on a reading of Section 27 of the D.V. Act, it is made to appear that a proceeding under the said Act can be maintained by the court of Magistrate First Class within the local jurisdiction of which the person aggrieved permanently or temporarily resides or carries on business or is employed; or respondent resides or carries on business or is employed; or by clause (c) the cause of action has arisen, which is relevant in the present case. Considering the averments of the petition, the Court is of the view that even though opposite party No.2 does not claim to be a temporary resident of Soro but since the cause of action has arisen at Soro which is the place of her in-laws, learned J.M.F.C., Soro shall have the jurisdiction in view of Section 27(1)(c) of the D.V. Act. In other words, submission of learned counsel for the petitioner cannot be accepted for the reason that there is a cause of action as is revealed from the petition itself that the domestic violence and ill-treatment which has been alleged by the opposite party No.2 commenced at Soro which is a place situated within the local limits of the court below.

7. Thus having considered the materials on record and submissions of learned counsel for the respective parties, the Court is of the view that no case is made out by the petitioner for interference.

8. Consequently, CRLMC stands dismissed. However, the petitioner is at liberty to raise the grounds by filing an objection before the learned J.M.F.C., Soro. It is brought to the notice of the Court by the learned counsel for opposite party Nos.2 & 3 that the petitioner has been debarred from filing any objection by the learned J.M.F.C., Soro vide order dated 23<sup>rd</sup> November, 2021.

However, in response to the above, learned counsel for the petitioner submits that an objection has already has been filed before the court below and if not filed liberty should be granted for the same. The Court is of the view that the petitioner should be provided liberty to file objection even if it is debarred by the learned court below and accordingly, it is directed.

9. An objection if filed by the petitioner, the same shall be entertained by the learned J.M.F.C., Soro and he shall proceed with the proceeding in D.V. Misc. Case No.86 of 2019 as per and in accordance with law.

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

(R.K. Pattanaik)  
Judge

TUDU

