

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2137 of 2021

Bibhuranjan Jena

.... **Petitioner**
Mr. J. Kamila, Advocate

-Versus-

State of Odisha and Others

.... **Opposite Parties**
Mr. T.K. Praharaj, SC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
30.09.2022

Order
No.

01.

1. Heard learned counsel for the petitioner and Mr. Praharaj, learned Standing Counsel for the State besides learned counsel for opposite party Nos.2 and 3.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner challenging the framing of charge dated 1st November, 2019 directed in C.T. Special (POCSO) No.60 of 2019 by the learned Special Judge, Jajpur and also for quashing of the entire criminal proceeding on the grounds stated therein.
3. Learned counsel for the petitioner submits that the petitioner has married opposite party No.2 and after such marriage, both the parties are staying together and leading a happy marital life and have also been blessed with a child and considering the aforesaid development, the criminal proceeding pending before the learned court below corresponding to Dharmasala P.S. Case No.128 of 2018 should be quashed in the interest of justice and while

claiming so, he refers to an affidavit filed by the victim which is annexed with a copy of the Aadhar Card regarding her identity proof. The learned counsel for opposite party Nos.2 and 3 confirmed the fact of marriage between the parties and claims that since the time of marriage, the petitioner and opposite party No.2 are leading a happy and peaceful marital life. While claiming marriage between the parties, in proof thereof, a receipt of a temple by name Sree Sree Mahabinayak Deva Jio, Dharpanagada, Jajpur dated 3rd June 2019 is produced. Truly attested copy of the said receipt of the temple is also produced by the learned counsel for the petitioner.

4. Petitioner and opposite party No.2 are physically present in Court today and both claim about their marriage having taken place in the year 2019. In fact, the parties are before the Court with their girl child aged about 3 years.

5. The Court perused the original receipt of the temple dated 3rd June, 2019 which prima facie shows that there has been a marriage between the petitioner and opposite party No.2. Admittedly, the marriage between the parties has not been registered.

6. Mr. Praharaj, learned counsel for the State submits that an offence under the POCSO Act is involved and by the time of the alleged occurrence, opposite party No.2 was a minor aged about 16 years and at the time of the alleged marriage, she was 17 years of old and was still a minor and considering the nature of the gravity of the offences alleged, the criminal proceeding pending before

court below in C.T. Special (POCSO) No.60 of 2019 should not be quashed.

7. It is not in dispute that the victim, namely, opposite party No.2 was minor when the alleged incident happened. Assuming the marriage between the petitioner and opposite party No.2 to have taken place in 2019, opposite party No.2 by then was admittedly a minor. In any case, the marriage has taken place between the parties which is prima facie proved from the receipt dated 3rd June, 2019 issued by the temple in question. The parties have been physically present claiming about their marriage in 2019. Considering the aforesaid development and notwithstanding the fact that in the meantime, charges have been framed by the learned Special Judge, Jajpur, the Court is of the view that to allow the prosecution to continue and remain alive is likely to create disturbance in the lives of the petitioner and opposite party No.2, who are happily married and leading a peaceful conjugal life at present. In view of the settled position of law as enunciated by the Apex Court in **B.S. Joshi and others Vrs. State of Haryana and another** reported in (2003) 4 SCC 675, wherein, it has been held and observed that under peculiar facts and circumstances of the case specially where the litigation is civil, matrimonial etc., inherent jurisdiction under Section 482 Cr.P.C. may be exercised. It is of course a case under the POCSO Act but then having regard to the fact that the parties have married in the meantime and living together, in order to ensure peace and stability in their lives, the Court is of the opinion that it is a fit where inherent jurisdiction should be exercised.

8. Accordingly, it is ordered

9. In the result, CRLMC stands allowed. Consequently, criminal proceeding in C.T. Special (POCSO) No.60 of 2019 corresponding to Dharmasala P.S. Case No.128 of 2018 pending in the file of learned Special Judge, Jajpur is hereby quashed.

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

(R.K. Pattanaik)
Judge

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