

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3326 of 2022

Nari @ Narendra Garadia and Others

Petitioners

Mr. S.K. Panda, Advocate

-Versus-

State of Odisha and Another

....

Opposite Parties

Mr. T.K. Praharaj, SC

Mr. N.P. Samal, Advocate for O.P.No.2

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

21.11.2022

Order
No.

01.

1. Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for opposite party No.2.

2. Instant case is filed for quashing of the order of cognizance dated 22nd January, 2013 in connection with G.R. Case No.334 of 2012 corresponding to Munigada P.S. Case No.131 of 2012 pending in the file of learned J.M.F.C., Bissamcuttack and also the entire proceeding on the ground of marriage between petitioner No.1 and opposite party No.2.

3. A copy of the FIR is at Annexure-1 and the same is perused.

4. The learned court below has taken cognizance of offences under Sections 363 and 366(A) read with 34 IPC and summoned all the accused persons including the petitioners in G.R. Case No.334 of 2012. Leaned counsel for the petitioners submits that since petitioner No.1 and opposite party No.2 are married and both are blessed with four children, the criminal proceeding which is pending before

the learned court below should be brought to an end in the interest of justice.

5. The fact of marriage is not disputed by the learned counsel for the opposite party No.2. Mr. Praharhaj, learned counsel for the State, however, submits that offences are non-compoundable in nature and therefore, the criminal proceeding should not be quashed despite the fact that the parties have married in the meantime.

6. Petitioner No.1 and opposite party No.2 are physically present in the Court today. Opposite party No.2 filed an affidavit stating therein that she is married to petitioner No.1 and both are leading a happy conjugal life and even blessed with four children. It is further stated that the informant's father is dead and unless criminal proceeding is quashed, it would be affect their martial life. Opposite party No.2 produced the original Aadhar card in support of her identity proof and on being asked, she claimed about her marriage to petitioner No.1 since last eight years. The husband-petitioner No.1 is present in Court along with one of their children.

7. Having regard to the claim of marriage between petitioner No.1 and opposite party No.2 and on account of affidavit filed by opposite party No.2, the victim herself stating that she is married and blessed with four children, the Court is of the view that the criminal proceeding pending before the learned court below should be quashed in order to secure the ends of justice. This Court is aware of the settled position of law as enunciated by the Apex Court in **B.S. Joshi and others Vrs. State of Haryana and another (2003) 4 SCC 675** in the exercise of inherent jurisdiction under Section 482 Cr.P.C. It is a fit case, considering the marriage

between petitioner No.1 and opposite party No.2, to exercise such jurisdiction in the interest of justice and also to avoid any kind of disturbance in the marital life of opposite party No.2 in particular who is married since last eight year and blessed with four children.

8. Accordingly, it is ordered.

9. Accordingly, the CRLMC stands allowed. Consequently, the criminal proceeding in G.R. Case NO.334 of 2012 arising out Munigada P.S. Case No.131 of 2012 pending in the file of learned J.M.F.C., Bissamcuttack is hereby quashed.

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

(R.K. Pattanaik)
Judge

TUDU

