

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No.2345 of 2021

Sarat Kumar Das and Anr. ***Petitioners***
Mr. Sujit Kumar Biswal, Adv.

-versus-

State of Orissa and Anr. ***Opposite Parties***
Mr. Sibani Shankar Pradhan, AGA
(for O.P. No.1)
Mr. Samarendra Bahadur, Adv.
On behalf of Mr. Subash Ch. Sahoo, Adv.
(for O.P. No.2)

CORAM:
MR. JUSTICE S.K. PANIGRAHI

ORDER
28.01.2022

Order No.

01. 1. This matter is taken up through Video Conferencing mode.
2. Heard Mr. S.K. Biswal, learned counsel for the petitioners, Mr. Sibani Shankar Pradhan, learned Additional Government Advocate for the State/ opposite party no.2 and Mr. Samarendra Bahadur, learned counsel appearing on behalf of Mr. Subash Ch. Sahoo, learned counsel for the opposite party no.2.
3. In this CRLMC, the petitioners have made a prayer to quash the criminal proceeding initiated against them in G.R. Case No.476 of 2006, arising out of Cuttack Mahila P.S. Case No.21 of 2006, pending in the court of learned J.M.F.C., Cuttack on the ground of compromise.
4. Learned counsel for the petitioners submits that the opposite party no.2 had filed Civil Proceeding No.310 of 2006 under Section 9 of the Hindu Marriage Act, 1955 for restitution of

conjugal rights and petitioner no.1 had filed Civil Proceeding No.260 of 2008 under Section 13(1) of the Hindu Marriage Act, 1955 for dissolving the marriage solemnized between him and the opposite party no.2 on 22.05.1998 by a decree of divorce before the learned Judge, Family Court, Cuttack. Learned Judge, Family Court, Cuttack vide the common judgment and order dated 15.07.2021 dismissed the Civil Proceeding No.310 of 2006 filed by the present opposite party no.2 and allowed the Civil Proceeding No.260 of 2008 filed by the present petitioner no.1 against the opposite party no.2, taking into account the joint compromise petition marked as Ext.7 in the impugned judgment and the affidavit filed in W.P.(C) No.7121 of 2013 before this Court and, accordingly, the marriage between the petitioner no.1 and the opposite party no.2 has been dissolved by a decree of divorce.

5. Learned counsel for the opposite party no.2 submits that the opposite party no.2 has filed an affidavit stating therein the aforesaid facts. In the said affidavit it has further been stated by the opposite party no.2 that she has received a sum of Rs.12,00,000/- (Rupees twelve lakhs only) towards permanent alimony and she does not have any objection, if the proceeding in G.R. Case No.476 of 2006, arising out of Cuttack Mahila P.S. Case No.21 of 2006 pending in the court of the learned J.M.F.C., Cuttack is quashed on the ground of compromise.

6. Keeping in view the ratio decided by the Hon'ble Supreme Court in the case of **B.S. Joshi and others vrs. State of**

Haryana¹, this Court is of the view that considering the compromise entered into between the parties, there is no need to proceed with the criminal trial, as the only possible outcome is of acquittal of the petitioners. There is remote and bleak possibility of conviction of the petitioners in this case. Hence, to prevent the abuse of process of law, the criminal trial against the petitioners is required to be quashed.

7. Accordingly, the CRLMC is allowed. The criminal proceeding in G.R. Case No.476 of 2006, arising out of Cuttack Mahila P.S. Case No.21 of 2006, pending in the court of learned J.M.F.C., Cuttack is hereby quashed. The Affidavit filed by the opposite party no.2 shall form a part of the records.

8. The CRLMC is disposed of, accordingly.

9. As the restrictions due to resurgence of Covid-19 are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the Advocate concerned with his/her seal, in the manner prescribed vide Court's Notice No.4587 dated 25th March, 2020 and Court's Office Order dated 7th January, 2022.

(S.K. Panigrahi)
Judge

BJ

¹ (2003) 4 SCC 675