

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC OF 2556 OF 2021

Prasanta Das @ Lituna

Petitioner
Mr.BharatJalii,
Advocate

-versus-

State of Odisha & others

....Opposite Parties
Mr.K.K.Gaya, ASC

**CORAM:
JUSTICE S.K. PANIGRAHI**

Order
No.01

ORDER
19.01.2022

1. This matter is taken up by virtual mode
- 2..Heard learned counsel for the petitioner and the learned counsel for the opposite party no.2, so also the learned counsel for the State.
- 3.This application under Section 482 of Cr.P.C. has been filed to quash the criminal proceeding vide Special G.R.Case No.57 of 2021 arising out of Ersama P.S.Case No.197 of 2021 for the offences under Sections 341/323/354/294/506 of the Indian Penal Code read with Section 12 of the POCSO Act pending in the court of learned Special Judge (POCSO) Court, Jagatsinghpur.
- 4.The prosecution allegation is that on 26.08.2021 at about 9.30 A.M. while the daughter of the opposite party No.2 was taking food in her house, the petitioner barged into theirasking the telephone number of one Chandan. When

she denied, the petitioner snatched away her mobile phone and threw it to the fire. He also assaulted her by means of crowbar on her ear, pulled her hand, tore her clothes and abused her in filthy language. He also threatened her cousin.

5. Learned counsel for the petitioner submits that both the parties are neighbours to each other. They have compromised their dispute in presence of their village gentries. A compromise petition (Annexure-2) made before the Inspector Incharge, Erasama P.S. has been filed as a token of settlement of the dispute between the parties wherein well-wishers of both the parties have signed. The father of the opposite party No.2 has also filed an affidavit dated 24.11.2021 sworn before the Executive Magistrate, Erasama stating therein that due to interference of their well-wishers and village gentries, the dispute between them has been settled. Neither the informant nor his victim-daughter want to proceed with the case

6. It is well expounded that the High Court in exercising its powers under Section 320 Cr.P.C. can compound the offences which are non-compoundable under the Code on the ground that there is a compromise between the accused and the complainant but on rarest of the rare cases.

The Hon'ble apex Court in the case of **Ramgopal & anr. Vrs State of Madhya Pradesh**,¹ has held in Paragraph-19 that

“19 We thus sum up and hold that as opposed to Section 320 Code of Criminal Procedure where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extra-ordinary power enjoined upon a High Court Under Section 482 Code of Criminal Procedure or vested in this Court Under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Code of Criminal Procedure. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the Accused and the victim; & (iv) Conduct of the Accused persons, prior to and after the occurrence of the purported offence and /or other relevant considerations.”

7. Learned counsel for the State concedes to such submissions regarding settlement of dispute between the parties. He also submits that both the parties are neighbor to each other and they are living peacefully in the same locality.

8. In view of the above facts and circumstances, the fact that the Informant (Opposite Party No. 2) and Petitioner have already settled their dispute amicably, the Opposite

¹(2021) 84 OCR (SC) -539

Party No.2 does not want to proceed with the prosecution further against the Petitioner in connection with Special G.R. Case No.57 of 2021 arising out of Ersama P.S. Case No.197 of 2021 pending before the learned Special Judge (POCSO) Court, Jagatsinghpur. Accordingly, there is hardly any chance of conviction of the Petitioner and in such event, it will amount to abuse of the process of the court in case the criminal proceeding is allowed to continue further.

9.Hence, this Court allows the CRLMC and quash the criminal proceeding against the Petitioner in connection with Special G.R. Case No.57 of 2021 arising out of Ersama P.S. Case No.197 of 2021 pending before the learned Special Judge (POCSO) Court, Jagatsinghpur.

10.This CRLMC is accordingly allowed.

11.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 Office Order dated 7th January, 2022.

(S.K.Panigrahi)
Judge

LB

