

(2024) 05 OHC CK 0136
In the Orissa High Court
Case No : CRLMC No.1595 Of 2024

Akash Digal

APPELLANT

Vs

State Of Odisha & Another

RESPONDENT

Date of Decision : 08-05-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 161
Indian Penal Code, 1860 — Section 376(2)(n), 506
Protection of Children from Sexual Offences Act, 2012 — Section 6

Citation : (2024) 05 OHC CK 0136

Hon'ble Judges : S.S. Mishra, J

Bench : Single Bench

Advocate : S.K. Dwibedy, P.K. Maharaj

Final Decision : Disposed Of

Judgement

S.S. Mishra, J

1. Heard.

2. At the instance of the opposite party no.2, the F.I.R., i.e., Gochhapada P.S. Case No.121 of 2023 came to be registered against the petitioner under Sections 376(2)(n)/506 of the IPC read with Section 6 of the POCSO Act corresponding to C.T. Case No.54 of 2023 pending in the Court learned Additional Sessions Judge – cum- Special Judge under POCSO Act, Phulbani.

3. During investigation, the police have recorded the statement of the victim under Section 161 of Cr.P.C. In her statement, the victim has stated that she had love relationship with the petitioner. However, with promise to marry her, the petitioner had sexually exploited her and also threatened her. Certified copy of the statement recored U/s 161 Cr.P.C is filed in Court today, which is taken on record.

4. In this case, investigation is still on. At this stage, the parties have settled their dispute. Both the petitioner and opposite party no.2 are present in Court

today along with their respective counsel. They have filed their self attested photocopies of the Adhar Cards to establish their identity.

5. On query from this Court, the opposite party no.2 stated that she has married the petitioner and they are also blessed with a male child. In the petition, birth certificate of the child is placed on record which reveals that the child was born on 02.10.2021. In the birth certificate, the father's name is written as Akash Digal, the petitioner in this case and mother's name is written as Swapna Behera, who is the opposite party no.2 in this case.

6. The petitioner and opposite party no.2 have filed a joint affidavit dated 08.05.2024 inter alia stated that they have already married and they are leading a happy conjugal life. Therefore, the opposite party no.2 is not interested to prosecute the petitioner any more. The affidavit is taken on record.

7. Mr. Maharaj, learned Additional Standing Counsel submits that since the dispute has already been settled, parties have married and they are blessed with a male child. In order to save marital life of the opposite party no.2 and keeping in view the future of the child this court can give indulgence to the petitioner.

Keeping in view the decisions of the Hon'ble Supreme Court in the cases of Gian Singh vs. State of Punjab and another reported in 2012 (10) SCC 303 and B.S. Joshi & others vs. State of Haryana & another reported in (2003) 4 SCC 675, the petition deserves merit.

8. Taking into consideration the aforementioned fact and submission at bar, the F.I.R., i.e., Gochhapada P.S. Case No.54 of 2023 pending in the Court of learned Additional Sessions Judge –cum- Special Judge under POCSO Act, Phulbani and the consequential proceedings arising therefrom qua the petitioner are quashed.

9. The CRLMC is accordingly disposed of.

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