
(2010) 03 OHC CK 0062
In the Orissa High Court

Artabandhu Samal and Others

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 02-03-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 294, 307, 320, 323, 326

Dowry Prohibition Act, 1961 — Section 4

Penal Code, 1860 (IPC) — Section 294, 307, 323, 326, 34

Citation : (2010) CLT 768 (Suppl CrI) : (2010) 1 OLR 624

Hon'ble Judges : I. Mahanty, J

Bench : Single Bench

Judgement

1. Mahanty, J.—Both these application u/s 482 Cr.P.C. have been filed by two sets of petitioners in connection with G.R. Case No. 30 of 1993 and G.R. Case No. 29 of 1993 corresponding to Binjharpur P.S. Case No. 8 of 1993 and 7 of 1993 respectively, now pending before the learned S.D.J.M., Jajpur, arising out of selfsame occurrence dated 5.1.1993. Both are case and counter case.

2. In CRLMC No. 3829 of 2009 prayer has been made for quashing of G.R. Case No. 30 of 1993 arising out of Binjharpur P.S. Case No. 8 of 1993 registered on 6.1.1993 for offences under Sections 341, 323, 326, 307, 294/34, I.P.C. against the petitioners and CRLMC No. 3830 of 2009 has been filed by the petitioners for seeking quashing of G.R. Case No. 29 of 1993 pending in the Court of learned S.D.J.M., Jaipur arising out of Binjharpur P.S. Case No. 7 of 1993 registered on 5.1.1993 under Sections 341, 323, 326, 294, 307/34, I.P.C. against the petitioners.

3. In G.R. Case No. 30 of 1993 the case in the F.I.R. story is that on 5.1.1993 at about 4.00 P.M. the accused persons alongwith others alleged to have assaulted the victim Sarat Ch. Samal by means of Sword, Farsha, Kila, Bhujali etc. It is also alleged that the accused persons abused the victim, who is said to have received simple as well as grievous injuries.

4. It appears that G.R. Case No. 29 of 1993 is registered on the basis of a

separate F.I.R. said to have lodged on 5.1.1993 relating to the selfsame occurrence. One Artabandhu Samal has lodged F.I.R. against the petitioners in CRLMC 3830 of 2009 for having committed offences under Sections 341, 323, 326, 294, 307/34, I.P.C. It is stated by the learned Counsel for the parties that both the informants and the accused persons involved in both the G.R. Cases belong to one village and they have amicably settled their inter se dispute and further since more than sixteen years have lapsed, both the parties prayed for a direction to quash the proceedings since they are now living peacefully in a friendly atmosphere.

5. Learned Counsel for both the parties prayed that no fruitful purpose will be served if the proceedings allowed to continue after lapse of such a long time. In this regard learned Counsel appearing for the petitioners placed reliance on a judgment of this Court in the case of Sudam Charan Barik v. State and Ors. reported in (1994) 7 OCR 207, where in a proceeding relating to various offences including offence u/s 307 I.P.C. was directed to be quashed in the interest of justice, as the continuance of same would not be in the interest of either parties. Reliance was also placed in the judgment of the Hon''ble Supreme Court in the case of AIR 1988 2111 (SC) , where the Hon''ble Supreme Court directed quashing of the proceeding involving an offence u/s 307 I.P.C. The learned Counsel for the petitioners has also placed reliance on a decision of the Hon''ble Supreme Court in the case of Nikhil Merchant v. Central Bureau of Investigation and Anr. reported in (2008) 41 OCR (SC) 427 where Hon''ble Supreme Court relying on its earlier judgment in the case of B.S. Joshi and Others Vs. State of Haryana and Another, came to hold that the High Court in exercise of its inherent powers can quash criminal proceedings or an FIR or complaint and Section 320 Cr.P.C. does not limit or affect the power of the High Court u/s 482 of the Code. Their Lordships came to conclude in the said judgment that the said case was a fit case where technicality should not be allowed to stand in the way in the quashing of the criminal proceedings, since, in their view, the continuance of the same after the compromise arrived at between the parties would be a futile exercise. Reliance was also placed by the petitioners in the case of Bharmarbar Khillar and Ors. v. State of Orissa and Ors. reported in 2004 (Supp.) OLR 150 where in a case involving offences under Sections 498A, 307/34, I.P.C. and Section 4 of the D.P. Act, directions were issued to quash the proceeding since the victim was no more interested to prosecute the G.R. Case in view of settlement/compromise.

6. It is relevant to note here that some of the petitioners in both the cases including the alleged victim in G.R. Case No. 30 of 1993 were present in the Court and all of them stated that they have settled their dispute amicably and the victim as well is no longer interested to prosecute the case after lapse of more than sixteen years and since the parties are maintaining cordial relationship.

7. In view of the aforesaid facts noted hereinabove, the criminal proceedings in

G.R. Case No. 30 of 1993 and G.R. Case No. 29 of 1993 pending in the Court of learned SDJM, Jaipur are directed to be quashed.

8. Both the CRLMC's are disposed of.

9. Urgent certified copy of this order be granted on proper application.