

(1998) 01 OHC CK 0006
In the Orissa High Court
Case No : Civil Revision No. 51 of 1997

Chagala Kumar Panigrahi

APPELLANT

Vs

Smt. Ujjal Senapati and Others

RESPONDENT

Date of Decision : 29-01-1998

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 34

Citation : (1998) 2 CivCC 661

Hon'ble Judges : P.K. Misra, J

Bench : Single Bench

Advocate : D.K. Misra, for the Appellant; R.N. Mohanty, B.N. Rath, M.K. Panda and R. Misra, for the Respondent

Final Decision : Allowed

Judgement

P.K. Misra, J.—The defendants in a pending suit have filed this revision against the order of the trial court refusing to stay the further proceedings of the suit.

2. The facts giving rise to the filing of the present civil revision are as follows:-

The opposite parties 1 to 4 have filed M.S. No. 59 of 1996 in the Court of the Civil Judge (Sr. Divn.), Dhenkaftal, claiming Rs. 8,46,000/- as compensation on the ground that the defendants had killed the son of opposite party No. 1. The present petitioners who are the accused persons in G.R. Case No. 66 of 1995 and facing trial u/s 302/34, I.P.C., after appearance in the said suit filed an application for staying the further proceeding of the suit on the ground that the suit should be stayed till disposal of the criminal case. The said application having been dismissed by the trial Court by placing reliance upon a decision of the Supreme Court reported in 1996 (1) O.L.R. (S.C.) 411 (State of Rajasthan v. M/s. Kalyan Sundaram Cement Industries Ltd. and Others), the present civil revision has been filed.

3. It has been contended by the counsel for the petitioners that since the petitioners are facing a serious charge in a criminal case, they would be highly

prejudiced if they are forced to disclose their stand in the civil suit by filing written statement and contesting the suit on merit and, as such, in the interest of justice the further proceeding of the suit should be stayed.

4. There is no doubt that the finding of a criminal Court may not be relevant in a civil suit of the present nature and, similarly, the finding of a civil Court in a suit for damages may not be relevant for a decision in the criminal case. The question, however, is whether in the interest of justice a suit or a criminal case, as the case may be, should be stayed. No hard and fast rule can be laid down in such cases and the question will always depend upon the facts and circumstances of each case. Though ordinarily the civil suit may not be stayed merely due to the pendency of a criminal case for the very same incident, depending upon the facts and circumstances of a given case, in exceptional circumstances the Court is not powerless to grant stay of further proceeding of a suit in the interest of justice. The present case appears to be one of such exceptional nature to which the normal principle as reflected in the decision reported in 1996 (I) O.L.R. (S.C.) 411 may not be applied. Presently, the petitioners are facing a serious charge u/s 302/34, I.P.C. Having regard to the nature of allegations and the nature of the case, there is no iota of doubt that the present petitioners will be highly prejudiced in the criminal case, if they are forced to disclose their defence at this stage in the civil Court. There is no doubt that the plaintiffs in the civil Court may be harassed to some extent if the suit filed by them is stayed but considering the relative prejudice likely to be caused, in my view, an exception can be made in the peculiar facts and circumstances of the present case to direct the further proceedings in M.S. No. 59 of 1996 pending in the Court of the Civil Judge (Sr. Divn.), Dhenkanal, should be stayed till the trial in the criminal case is over and judgment is delivered in the said case. Needless to point out that filing of an appeal in the criminal case either by the accused persons or by the State Government, as the case may be, would not be a ground for further stay of the civil suit and the civil suit has to be decided on its own merit in accordance with law without being influenced by any of the observations made in the criminal case.

5. The Civil Revision is accordingly allowed.