
(2005) 05 OHC CK 0020
In the Orissa High Court
Case No : CRLMC No. 2090 of 2004

Chandan @ Ananda Jena and Others

APPELLANT

Vs

State of Orissa and Another

RESPONDENT

Date of Decision : 04-05-2005

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Dowry Prohibition Act, 1961 — Section 4
Penal Code, 1860 (IPC) — Section 323, 34, 406, 498A

Citation : (2005) 2 OLR 122

Hon'ble Judges : A.K. Parichha, J

Bench : Single Bench

Advocate : Brundaban Rout, for the Appellant; N.K. Das, B. Mohanty and C. Kasturi and Additional Government Advocate, for the Respondent

Judgement

A.K. Parichha, J.—Though the matter has been listed for admission, on the consent of the learned counsel for the parties, it is taken up for final disposal at the stage of admission.

2. Heard learned counsel for the parties.

3. The petitioners are all accused in G.R. Case No. 593 of 1999 of the Court learned JMFC, Pattamundai. They have filed this application u/s 482, Cr.P.C. to quash the order dated 12.9.2002 framing charge against them for the offences under Sections 498-A, 323/34, IPC and Section 4 of the D.P. Act.

4. Learned counsel for the petitioners submits that there has been an amicable settlement between the petitioners and opp.party No. 2 consequent upon which the opp.party No. 2 is living happily with her husband-petitioner No. 1. He submits that when the parties have amicably sorted out their differences and are living in cordial terms, continuance of the proceedings of G.R. Case No. 593 of 1999 will not only be abuse of process of the Court, but will also cause strain in the relationship between the parties. According to him in the aforementioned situation the best course is to quash the impugned order of charge and the

further proceedings of G.R. Case No. 593 of 1999. To support his contention, learned counsel for the petitioners relied on the cases of B.S. Joshi and Ors. v. State of Haryana and Anr. 2003 II OLR 101 : (2003) 25 OCR (SC) 99; Tankadhar Thakur and Ors. v. State of Orissa and Anr. 2003 OLR 964 : (2003) 26 OCR 331; Tasoraj Mahamad and Ors. v. State of Orissa and Anr. 2004 II OLR 642 : (2005) 30 OCR 188.

5. Learned Addl. Govt. Advocate, on the other hand submits that the offence u/s 498-A, IPC and Section 4 of the D.P. Act are non-compoundable in nature as per Section 320 of the Cr.P.C. and such offences cannot be compounded by exercise of power u/s 482, Cr.P.C.

6. In the case of B.S. Joshi and Ors. v. State of Haryana and Anr. (supra), the wife filed a complaint case against the husband for the offences under Sections 498-A, 323 and 406, IPC. Later on the parties settled their dispute and prayed for quashing of the cognizance taken in the case. The High Court refused to exercise the inherent power to quash the proceedings u/s 482, Cr.P.C. due to the bar provided u/s 320, Cr.P.C. The apex Court while disagreeing with the view of the High Court held that when quashing of a proceeding is necessary for the purpose of securing the ends of justice, Section 320, Cr.P.C. cannot stand as a bar. It was also indicated that where chance of conviction is bleak, the Court can proceed to quash the proceeding taking into consideration the special facts and circumstances of the case. This view of the Supreme Court has been followed by this Court in the cases of Narayan Rout and Ors. v. State of Orissa and Anr. 2003 OLR 948 : (2003) 25 OCR 244; Tankadhar Thakur and Ors. v. State of Orissa and Anr. (supra) and Tasoraj Mahamad and Ors. v. State of Orissa and Anr. (supra) and also in several other cases. So the legal position is now clear. Even if some of the offences alleged are non-compoundable in nature a criminal proceedings involving such offences can be quashed if such quashing is necessary for securing ends of justice.

7. In the present case the petitioners are the husband and in-laws of opp.party No. 2. Now the parties have sorted out their differences and are living peacefully. The wife - opp.party No. 2 has filed an affidavit in this regard indicating therein that she is now living in cordial term with the petitioners and has been blessed with a child in the meantime. She has also prayed to quash the proceedings on the plea that continuance of criminal proceedings may again cause tension in her relationship with the petitioners. Since quashing of the proceedings in G.R. Case No. 593 of 1999 of the Court of learned JMFC, Pattamundai will bring peace, amity and happiness in the family of opp.party No. 2 and the petitioners and since after the compromise between the parties chance of conviction of the petitioners is bleak, it will be just and proper to quash the proceedings of the above noted G.R. Case.

8. The impugned order of charge and proceedings in G.R. Case No. 593 of 1999 of the Court of learned JMFC, Pattamundai is accordingly quashed.

9. With the aforesaid observations the CRLMC stands disposed of.
10. UCC be granted on proper application.