

(2018) 01 OHC CK 0024

In the Orissa High Court

Case No : 1934 of 2006

Debasish Mohanty and Others

APPELLANT

Vs

State of Orissa and another

RESPONDENT

Date of Decision : 02-01-2018

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 482](#) - Saving of inherent powers of High Court

[Indian Penal Code, 1860](#), [Section 34](#), [Section 498-A](#) - Acts

Citation : (2018) 01 OHC CK 0024

Hon'ble Judges : S.K. Sahoo

Bench : Single Bench

Advocate : Udit Ranjan Jena, Prem Kumar Patnaik

Final Decision : Allowed

Judgement

1. Heard Mr. Udit Ranjan Jena, learned counsel for the petitioners and Mr. Prem Kumar Patnaik, learned Addl. Govt. Advocate for the State.

2. The petitioner no.1 Debasish Mohanty is the husband, petitioner no.2 is the father-in-law, petitioner no.3 is the mother-in-law and petitioner

no.4 is the sister-in-law of Sarmistha Pattnaik respectively.

3. The opposite party no.2 Surendra Narayan Pattnaik, who is the father of Sarmistha Pattnaik lodged the first information report before Inspector

in charge of Mancheswar police station on 03.02.2000 which was sent to Capital police station on the ground of jurisdiction, on the basis of which

Capital P.S. Case No.54 of 2000 was registered under sections 498-A/34 of the Indian Penal Code and section 4 of the Dowry Prohibition Act.

The said case corresponds to G.R. Case No.361 of 2000 pending in the Court of learned S.D.J.M., Bhubaneswar.

4. In the first information report, the informant alleged relating to the demand of dowry and physical and mental torture against his daughter by the petitioners. It appears that while the investigation was under progress, the matter was amicably settled between the parties at the intervention of well wishers and the factum of compromise of the dispute was also intimated to the investigating officer. It further appears that petitioner no.1 and Sarmistha Pattnaik filed a joint petition under section 13-B of the Hindu Marriage Act for mutual divorce before the Civil Judge (Sr. Division), Bhubaneswar bearing O.S. No.469 of 2000 and vide order dated 23.02.2001, the suit was decreed and the marriage between the parties was dissolved. In spite of such order of mutual divorce and in spite of communication of amicable settlement of dispute between the parties, the investigating officer submitted charge sheet under sections 498- A/34 of the Indian Penal Code and section 4 of the Dowry Prohibition Act against the petitioners and the learned S.D.J.M., Bhubaneswar vide order dated 28.05.2002 took cognizance of such offences and issued process which is impugned in this application.

5. Mr. Udit Ranjan Jena, learned counsel for the petitioners relying upon the decision of the Hon''ble Supreme Court in the case of B.S. Joshi -

Vrs.- State of Haryana reported in (2003) 25 Orissa Criminal Reports (SC) 99 contended that since the case arises out of matrimonial dispute and

the matter has been resolved between the parties and mutual divorce decree has been passed, the continuance of criminal proceeding would be an

abuse of process and therefore, in the interest of justice, this Court should invoke its inherent power under section 482 of Cr.P.C to quash the

criminal proceeding.

6. Mr. Prem Kumar Patnaik, learned Addl. Govt. Advocate for the State has no serious objection to such prayer.

7. In case of B.S. Joshi (supra), it has been held as follows:-

14. There is no doubt that the object of introducing Chapter XX-A containing section 498-A in the Indian Penal Code was to prevent the torture

to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who

harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter

productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-

exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object

of Chapter XX-A of Indian Penal Code.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or

complaint and section 320 of the Code does not limit or affect the powers under section 482 of the Code.

8. In view of the ratio decided by the Hon''ble Supreme Court, since the case arises out of a matrimonial dispute and the parties have settled their

dispute and mutual divorce decree has been passed between the petitioner no.1 and the daughter of the informant namely Sarmistha Pattnaik, I am

of the view that the continuance of the criminal proceeding against the petitioners would be an abuse of process and no fruitful result would come

out of the same.

9. Therefore, I am inclined to invoke my inherent power under section 482 of Cr.P.C. and quash the impugned order dated 28.05.2002 passed by

the learned S.D.J.M., Bhubaneswar as well as the entire criminal proceeding in G.R. Case No.361 of 2000.

10. Accordingly, the CRLMC application is allowed.