

(2021) 09 OHC CK 0009
In the Orissa High Court
Case No : CRLMC No.1191 Of 2021

Debiprasad Das And Others

APPELLANT

Vs

State Of Odisha And Another RESPONDENT

RESPONDENT

Date of Decision : 02-09-2021

Acts Referred:

Code of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 34, 323, 406, 498A, 506
Dowry Prohibition Act, 1961 — Section 4

Citation : (2021) 09 OHC CK 0009

Hon'ble Judges : B. P. Routray, J

Bench : Single Bench

Advocate : Tapobanta Barik, J. Katikia, Narendra Prasad Rath

Final Decision : Allowed

Judgement

B. P. Routray, J

1. The Petitioner has prayed for quashing of the criminal proceeding in GR Case No.152 of 2019 arising out of Kendrapara P.S. Case No.17 of 2019 for commission of offence under Sections 498-A/323/506/406/34 of I.P.C. and Section 4 of the Dowry Prohibition Act pending before the court of learned S.D.J.M., Kendrapara including the order of cognizance dated 28th September, 2020.

2. The facts of the case are that, marriage between Petitioner No.1 and Opposite Party No.2 solemnized on 7th July, 2012 before the Marriage Officer, Cuttack under the Special Marriage Act. The Petitioner Nos.2 and 3 are the parents-in-law of Opposite Party No.2. Due to dispute and misunderstanding, the marital relationship between the parties was disturbed and thus the F.I.R. dated 12th September, 2019 in Kendrapara P.S. Case No.17 of 2019 was lodged by Opposite Party No.2 alleging demand of dowry with torture.

3. It is submitted on behalf of the Petitioner that in the meantime the

matrimonial dispute between the parties have been settled out of court and as there was no chance of reunion, Petitioner No.1 and Opposite Party No.2 agreed to dissolve their marriage and accordingly filed a petition for divorce on mutual consent before the learned Family Judge, Bhubaneswar in CP No.460 of 2021. As per the settlement, Petitioner No.1 was required to pay a sum of Rs.9 lakhs to Opposite Party No.2 towards permanent alimony in two equal installments. Pursuant to the same, Opposite Party No.2 has already received the payment on 21st June and 21st July, 2021 vide B.D. No.238297 dated 16th June, 2021 and B.D. No.238328 dated 20th July, 2021 respectively, drawn on UCO Bank, Marsaghai branch. It is further submitted that learned Judge, Family Court, Bhubaneswar by judgment dated 21st July, 2021 has ordered for divorce on mutual consent between Petitioner No.1 and Opposite Party No.2 by dissolving the marriage.

4. Opposite Party No.2 has entered appearance through her lawyer and supported the averments of the Petitioners. However, reference has been drawn to a joint affidavit dated 12th July, 2021 filed by Petitioner No.1 and Opposite Party No.2 regarding the settlement arrived between them.

5. In *B.S. Joshi v. State of Haryana*, (2003) 4 SCC 675, the Hon'ble Supreme Court have observed that in exercise of inherent power under Section 482 Cr.P.C., the High Court can quash the criminal proceedings in matrimonial disputes where the dispute is entirely private and the parties are willing to settle their disputes amicably.

6. Further, in the case of *Gian Singh v. State of Punjab and another*, (2012)100 SCC 303, the Hon'ble Apex Court while on examination of law laid down in the case of *B.S. Joshi* (supra) and other cases with regard to inherent power of High Court under Section 482 Cr.P.C. have quashed the proceedings involving non-compoundable offences in view of the compromise arrived at between the parties. Also in the case of *Jitendra Raghuvanshi and others v. Babita Raghuvanshi and another*, (2013) 4 SCC 15, the Hon'ble Supreme Court has held that the High Court in exercise of its inherent power can quash the criminal proceeding or F.I.R. or complaint in appropriate cases in order to meet the ends of justice and Section 320 Cr.P.C. does not limit or affect the powers of the High Court under Section 482 of the Code. It is further held that even if the offences are non-compoundable, if they relate to matrimonial disputes and the court is satisfied that the parties have settled the same amicably and without any pressure, the complaint or criminal proceedings can be quashed for the purpose of securing the ends of justice. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in the court of law and in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising its extraordinary jurisdiction.

7. When the facts are admitted in the instant case that the parties have settled their dispute and marriage has been dissolved by the decree of divorce on

mutual consent and the wife-Opposite Party No.2 has already received the permanent alimony, no purpose is seen for further continuance of the criminal proceeding. As such, the criminal proceeding in GR Case No.152 of 2019 arising out of Kendrapara P.S. Case No.17 of 2019 including the cognizance order dated 28th September, 2020 is quashed.

8. The CRLMC is accordingly allowed.

9. An urgent certified copy of this order be issued as per rules.