
(2022) 08 JH CK 0058

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 1875 Of 2022

Harsh Kumar

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 22-08-2022

Acts Referred:

Indian Penal Code, 1860 — Section 366A
Code Of Criminal Procedure, 1973 — Section 482

Citation : (2022) 08 JH CK 0058

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Gautam Kumar, Nehala Sharmin, Ramchander Sahu

Final Decision : Allowed

Judgement

Sanjay Kumar Dwivedi, J

1. Heard Mr. Gautam Kumar, learned counsel for the petitioner, Mrs. Nehala Sharmin, learned counsel for the State and Mr. Ramchander Sahu, learned counsel for opposite party no.3.

2. This petition has been filed for quashing the entire criminal proceeding of Children Case No.39/2022 [arising out of Chirkunda (Kumardhubi OP) P.S. Case No.133/2019 corresponding to G.R. Case No.1213/2019] including the order dated 08.03.2022 passed by the learned Special Judge, Children's Court, Dhanbad in MCA No.586/2022 in Children Case No.39/2022 [arising out of Chirkunda (Kumardhubi OP) P.S. Case No.133/2019 corresponding to G.R. Case No.1213/2019] whereby the petition for recalling P.W.1 (victim) for her examination has been rejected, pending in the court of the learned Additional District & Sessions Judge-1st – cum-Special Judge, Children's Court, Dhanbad.

3. The FIR dated 16.07.2019 was lodged by the informant, who is father of the victim. The case has been registered on the allegation that the petitioner has enticed the victim, who was aged about 15 years on 16.07.2019 for the purpose

of marriage and the case was registered on that basis under Section 366-A of the Indian Penal Code.

4. Learned counsel for the petitioner submits that now the petitioner as well as opposite party no.3 have married and they have compromised the matter and they are residing together. He further submits that now opposite party no.3 is major. He also submits that the family has also accepted the marriage.

5. The informant, petitioner and opposite party no.3 are present in the Court. On query from the Court, they have responded that the matter has been compromised and the father of the victim has also accepted the marriage. The marriage has also been accepted by the family. The informant stated that he does not want to proceed with the case as the petitioner and her daughter reside happily and she is now major.

6. There is no doubt that the petition under Section 482 Cr.P.C. to be entertained when the Court comes to the conclusion that to continue the proceeding will amount of abuse of process of law and more particularly to secure the ends of justice. Ordinarily, the High Court must show restraint in quashing the FIR and entire criminal proceeding for offence under the POCSO Act as well as Section 366-A of the Indian Penal Code. It transpires that the victim is now major and she has accepted the marriage and family has also accepted the marriage, as has been stated by the informant who is the father of the girl. The informant has also stated before the Court that he is not willing to contest the case.

7. In view of the above facts and circumstances and considering that girl is now major and she has accepted the marriage and she lives with the petitioner with all dignity, to allow to continue the case in the concerned court will amount to ruin the two lives.

8. Accordingly, the entire criminal proceeding of Children Case No.39/2022 [arising out of Chirkunda (Kumardhubi OP) P.S. Case No.133/2019 corresponding to G.R. Case No.1213/2019] including the order dated 08.03.2022 passed by the learned Special Judge, Children's Court, Dhanbad in MCA No.586/2022 in Children Case No.39/2022 [arising out of Chirkunda (Kumardhubi OP) P.S. Case No.133/2019 corresponding to G.R. Case No.1213/2019], pending in the court of the learned Additional District & Sessions Judge-1st-cum-Special Judge, Children's Court, Dhanbad is, hereby, quashed.

9. Resultantly, this petition stands allowed and disposed of.