

(2019) 01 OHC CK 0046

In the Orissa High Court

Case No : Civil Miscellaneous Petition No. 1009 Of 2018

Jainul Khan

APPELLANT

Vs

Sk. Rahim Alias Sk. Abdul Rahim

RESPONDENT

Date of Decision : 07-01-2019

Acts Referred:

Indian Penal Code, 1860 — Section 392, 504, 506

Citation : (2019) 01 OHC CK 0046

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

Bench : Single Bench

Advocate : Ranjit Mohanty

Final Decision : Dismissed

Judgement

A.K. Rath, J

1. This petition seeks to lacinat the order dated 2.5.2018, passed by the learned Addl. Senior Civil Judge, Kendrapara, in Money Suit No. 24 of 2017,

whereby and whereunder, learned trial Judge rejected the application of the petitioner for stay of further proceeding of the suit till disposal of CRLLP

No. 72 of 2017, pending before this Court.

2. Since the dispute lies in a very narrow compass, facts need not be recounted in details. Suffice it to say that plaintiff-opposite party instituted a

money suit for damages on the ground that petitioner lodged I.C.C. No. 129 of 2007 (Trial No. 158 of 2013) under Sections 392/504/506 I.P.C., before

the learned J.M.F.C., Kendrapara against him. In the petition, it was stated that he was a thief and anti-social person. He was acquitted. He suffered

ignominy. His image was tarnished in society. The defendant-petitioner entered appearance and filed a petition to stay the further proceeding of the

suit till disposal of CRLLP No. 72 of 2017. Learned trial court rejected the same.

3. Heard Mr. Ranjit Mohanty, learned counsel for the petitioner. None appears for the opposite party inspite of valid service of notice.

4. Mr. Mohanty, learned counsel for the petitioner submits that against the order of acquittal, the complainant preferred CRLLP No. 72 of 2017 before

this Court. Since there was delay in filing the petition, notice was issued on the question of limitation to the opposite party. In the event, the further

proceeding of the suit is not stayed, the petitioner shall be seriously prejudiced.

5. The submission of Mr. Mohanty is difficult to fathom. In M.S. Sheriff v. State of Madras, AIR 1954 SC 397 (Vol.41 C.N. 95), the apex Court

held:

“15. As between the civil and the criminal proceedings we are of the opinion that the criminal matters should be given precedence. There is some

difference of opinion in the High Courts of India on this point. No hard and fast rule can be laid down but we do not consider that the possibility of

conflicting decisions in the civil and criminal courts is a relevant consideration. The law envisages such an eventuality when it expressly refrains from

making the decision of the court binding on the other, or even relevant, except for certain limited purposes, such as sentence or damages. The only

relevant consideration here is the likelihood of embarrassment.

16. Another factor which weighs with us is that a civil suit often drags on for years and it is undesirable that a criminal prosecution should wait till

everybody concerned has forgotten all about the crime. The public interests demand that criminal justice should be swift and sure; that the guilty

should be punished while the events are still fresh in the public mind and that the innocent should be absolved as early as is consistent with a fair and

impartial trial. Another reason is that it is undesirable to let things slide till memories have grown too dim to trust. This, however, is not a hard and fast

rule. Special considerations obtaining in any particular case might make some other course more expedient and just.

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6. It was further held that simultaneous prosecution of the present case, i.e. the criminal proceeding and civil suit will embarrass the petitioner and the

civil suit should be stayed till the criminal proceeding is finished.

7. In the instant case, the opposite party was the accused in the complaint case. He was acquitted in the case. The petitioner will not be prejudiced in any way. Thus the question of stay of further proceeding of the suit does not arise.
8. In the wake of the aforesaid, the petition sans merit, deserves dismissal. Accordingly, the same is dismissed. No costs.