

(2011) 04 OHC CK 0041
In the Orissa High Court
Case No : Criminal Appeal No. 3819 of 2009

Jyotirmaya Nayak

APPELLANT

Vs

State of Orissa and Another

RESPONDENT

Date of Decision : 22-04-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 34, 406, 498A, 506

Citation : (2012) 1 DMC 452

Hon'ble Judges : I. Mohanty, J

Bench : Single Bench

Advocate : Sangam Kumar Sahoo, for the Appellant; Madani, Advocate for the Opposite Party No. 2, A. SC. for State, for the Respondent

Judgement

I. Mohanty, J.—Heard Mr. S.K. Sahoo, learned Counsel for the petitioners and Mr. Madani, learned Counsel for the opposite party No. 2.

In this application u/s 482, Cr.P.C., the petitioners have sought to challenge the order dated 11.5.2009 passed in G.R. Case No. 265 of 2008,

whereby, the learned S.D.J.M., Bolangir has been pleased to take cognizance against them under Sections 498A, 406, 506 read with Section 34,

I.P.C. and Section 4 of the D.P. Act.

2. Mr. Sahoo, learned Counsel for the petitioners have filed a memo enclosing thereto copy of the judgment dated 9.2.2011 passed by the learned

Civil Judge (Sr. Division), Bolangir in Civil Suit No. 110 of 2010 by virtue of which the marriage between petitioner No. 1 and opposite party No.

2 stood dissolved.

3. Perused the certified copy of the joint petitioner filed in the Civil Suit for mutual divorce and in paragraph-10 of the said petition, it is noted as

follows:

That, the GR. Case No. 265 of 2008 pending before the S.D.J.M., Bolangir and C.S. No. 71/2008 pending before the Civil Judge (Senior

Division), Bolangir and MAT Case No. 999/2008 pending before the Civil Judge (Senior Division), Bhubaneswar and TRP(C) Nos. 83/2009 and

103/7.009 and WP. (C) No. 18428/2009 pending before the Hon''ble High Court of Orissa, Cuttack shall be disposed of in view of this joint

application for divorce by mutual consent and the petitioner No. 2 shall cooperate and file supporting affidavit before the Hon''ble High Court of

Orissa, Cuttack in Crl. Misc. Case No. 3819/2009 for quashing of the G.R. Case No. 265/2008 pending before the S.D.J.M., Bolangir against

the petitioner No. 1. and his family members.

Opposite party No. 2 has also filed a separate affidavit and in paragraph-3 thereof, it is noted as follows:

That as per terms of compromise, I am not interested to proceed further with the criminal proceeding against the petitioners and I have no

objection if the criminal proceeding pending against the petitioner in the aforesaid G.R. Case No. 265 of 2008 is quashed by this Hon''ble Court.

In view of the aforesaid facts and considering, the fact that the marriage between the petitioner No. 1 and opposite party No. 2 has been

dissolved, I am of the opinion that continuance of the present criminal case would not be in the interest of the either party. Therefore, keeping in

view the decision of the Hon''ble Supreme Court in the case of B.S. Joshi and Others v. State of Haryana and Another, II (2003) SLT 689=II

(2003) CCR 57 (SC)=I (2003) DMC 524 (SC)=(2003) 25 OCR (SC) 99, the criminal proceeding pending against the petitioners in G.R. Case

No. 265 of 2008 before the learned S.D.J.M., Bolangir is quashed.

Accordingly, the CRL M.C. is allowed.

Urgent certified copy of this order be granted on proper application.