
(2022) 01 OHC CK 0117
In the Orissa High Court
Case No : CRLMC No.2403 Of 2021

Rajendra Kumar Panda And Ors

APPELLANT

Vs

State Of Orissa And Anr

RESPONDENT

Date of Decision : 19-01-2022

Acts Referred:

Hindu Marriage Act, 1955 — Section 13B

Citation : (2022) 01 OHC CK 0117

Hon'ble Judges : S.K. Panigrahi, J

Bench : Single Bench

Advocate : Jugal Kishore Panda, Karunakar Gaya, Soubhagya Kumar Dash

Final Decision : Disposed Of

Judgement

S.K. Panigrahi, J

1. This matter is taken up through Video Conferencing mode.
2. Mr. Soubhagya Kumar Dash, learned Advocate files Vakalatnama and enters appearance on behalf of the opposite party no.2. The same be kept on record.
3. Heard learned counsel for the parties.
4. In this CRLMC, the petitioners have made a prayer to quash the proceeding initiated against them in G.R. Case No.78 of 202, arising out of Nandapur P.S. Case No.14 of 2021, pending in the court of learned S.D.J.M., Koraput on the ground of compromise.
5. Learned counsel for the petitioners submits that the petitioner no.4 and the opposite party no.2 had filed a joint application i.e. Civil Proceeding No.166 of 2021 under Section 13-B of the Hindu Marriage Act, 1955 with a prayer for dissolution of their marriage by a decree of divorce on mutual

consent before the learned Judge, Family Court, Berhampur. The said application has been allowed by the learned Judge, Family Court, Berhampur

vide the judgment and order dated 28.10.2021 and accordingly, the marriage between the petitioner no.4 and the opposite party no.2 has been

dissolved by a decree of divorce on mutual consent with effect from the date of decree.

6. Learned counsel for the opposite party no.2 submits that the opposite party no.2 has filed an affidavit stating therein the aforesaid facts. In the said

affidavit it has further been stated by the opposite party no.2 that she has received a sum of Rs.4.00 lakhs towards permanent alimony and she does

not have any objection, if the proceeding in G.R. Case No.78 of 2021 arising out of Nandapur P.S. Case No.14 of 2021 pending in the court of the

learned S.D.J.M., Koraput is quashed on the ground of compromise.

7. Keeping in view the ratio decided by the Honâ??ble Supreme Court in the case of B.S. Joshi and others vrs. State of Haryana (2003) 4 SCC675,

this Court is of the opinion that in view of the compromise between the parties, there is no need to proceed with the criminal trial, as the only possible

outcome is of acquittal of the petitioners. There is remote and bleak possibility of conviction of the petitioners in this case. Hence, to prevent the abuse

of process of law, the criminal trial against the petitioners should be quashed.

8. Accordingly, the CRLMC is allowed. The criminal proceeding in G.R. Case No.78 of 2021 arising out of Nandapur P.S. Case No.14 of 2021

pending in the court of the learned S.D.J.M., Koraput is hereby quashed. The Affidavit filed by the opposite party no.2 shall form a part of the

records.

9. The CRLMC is disposed of, accordingly.

10. As the restrictions due to resurgence of Covid-19 are continuing, learned counsel for the parties may utilize a printout of the order available in the

High Courtâ??s website, at par with certified copy, subject to attestation by the Advocate concerned with his/her seal, in the manner prescribed vide

Courtâ??s Notice No.4587 dated 25th March, 2020 and Courtâ??s Office Order dated 7th January, 2022.

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