
(2021) 12 OHC CK 0126

In the Orissa High Court

Case No : Criminal Miscellaneous Petition No.208 of 2021

Sanatan Parida

APPELLANT

Vs

State Of Odisha And Another

RESPONDENT

Date of Decision : 20-12-2021

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Code of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 420, 506

Citation : (2021) 12 OHC CK 0126

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

Bench : Single Bench

Advocate : A.N.Das, N.Sarkar

Final Decision : Allowed

Judgement

B. P. Routray, J

1. The Petitioner is the accused in Badagada P.S.Case No.69 dated 22nd March, 2017 for alleged commission of offences under Sections 420/506 of the I.P.C.

2. The Petitioner has prayed for quashing of cognizance order dated 20th December, 2020 passed by the learned S.D.J.M., Bhubaneswar in C.T.Case No.1164 of 2017 as well as the criminal proceeding against him.

3. It is alleged in the F.I.R. that the Petitioner, who is working as a Sepoy in the Commissionerate Police, Bhubaneswar by persuading Opposite Party No.2, the complainant managed to take an amount of Rs.16,58,000/- fraudulently. The Petitioner has though returned an amount of Rs.5,58,000/- but still did not pay rest of the amount of Rs.11,00,000/-. As such, the F.I.R. was lodged.

4. It is submitted on behalf of the Petitioner that the matter between the Petitioner and the complainant has in the meantime been compromised and the Petitioner has returned all the amounts to the complainant. It is further submitted that the complainant is not interested to proceed further against the

Petitioner and he has filed an affidavit to that effect before the learned S.D.J.M., Bhubaneswar. Taking note of such compromise, the learned S.D.J.M., Bhubaneswar has also granted bail to the Petitioner in its order dated 14th October, 2019.

5. Opposite Party No.2 has appeared before this Court and filed an affidavit supporting the contention of the Petitioner that the dispute between them has already been settled. It is further stated in the affidavit that he is willing to withdraw the complaint against the Petitioner and does not want to proceed further against the Petitioner.

6. In the matters relating to quashing of criminal proceeding on compromise between the parties, the law is no more res integra. The Supreme Court in the case of Gold Quest International Private Limited v. State of Tamil Nadu and others, reported in (2014) 15 SCC 235, while relying on several earlier decisions including the case of B.S.Joshi vs. State of Haryana [(2003) 4 SCC 675] and Gian Singh vs. State of Punjab and another, [(2012) 10 SCC 303] have held (at para 8) as follows:

"In view of the principle laid down by this Court in the aforesaid cases, we are of the view that in the disputes which are substantially matrimonial in nature, or the civil property disputes with criminal facets, if the parties have entered into settlement, and it has become clear that there are no chances of conviction, there is no illegality in quashing the proceedings under Section 482 Cr.P.C. read with Article 226 of the Constitution. However, the same would not apply where the nature of offence is very serious like rape, murder, robbery, dacoity, cases under the Prevention of Corruption Act, cases under the Narcotic Drugs and Psychotropic Substances Act and other similar kind of offences in which punishment of life imprisonment or death can be awarded. After considering the facts and circumstances of the present case, we are of the view that the learned Single Judge did not commit any error of law in quashing the FIR after not only the complainant and the appellant settled their money dispute but also the other alleged sufferers entered into an agreement with the appellant, and as such, they too settled their claims."

7. Further, in the case of Central Bureau of Investigation, ACB, Mumbai vs. Narendra Lal Jain and others, (2014) 5 SCC 364, the Supreme Court has observed that Section 482 of the Code inheres in the High Court the power to make such order as may be considered necessary to, inter alia, prevent the abuse of the process of law or to serve the ends of justice. While it will be wholly unnecessary to revert or refer to the settled position in law with regard to the contours of the power available under Section 482 CrPC, it must be remembered that continuance of a criminal proceeding which is likely to become oppressive or may partake the character of lame prosecution would be good ground to invoke the extraordinary power under Section 482 CrPC.

8. In the instant case, undisputedly the affidavit has been filed by Opposite Party

No.2 stating therein that he is not interested to proceed against the Petitioner further in view of the settlement arrived at between them. Thus, the chance of conviction is very remote against the Petitioner. Having analyzed the averments and submissions made by both parties, particularly the affidavit of Opposite Party No.2 and the concession rendered by him, in my humble view that there would be abuse of the process of law if the trial continues till end. Thus, considering the law settled on this score, the proceeding in C.T.Case No.1164 of 2017 pending in the court of the learned S.D.J.M., Bhubaneswar including the order of cognizance is quashed.

9. The CRLMC is allowed.

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