

(2005) 11 OHC CK 0021

In the Orissa High Court

Case No : Criminal Miscellaneous Case No. 1305 of 2005

Sarbeswar Pradhan and Others

APPELLANT

Vs

State of Orissa and Another

RESPONDENT

Date of Decision : 23-11-2005

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Dowry Prohibition Act, 1961 — Section 4
Hindu Marriage Act, 1955 — Section 13(B)
Penal Code, 1860 (IPC) — Section 34, 498A

Citation : (2006) CLT 192 (Suppl CrI) : (2006) 2 DMC 167 : (2006) 1 OLR 47 : (2006) OLR 192 (Suppl CrI)

Hon'ble Judges : R.N. Biswal, J

Bench : Single Bench

Advocate : Salauddin Khan and M. Mohapatra, for the Appellant; Addl. Standing Counsel, D.R. Parida and B.B. Champatiray, (O.P. No. 2), for the Respondent

Final Decision : Allowed

Judgement

R.N. Biswal, J.—The CRLMC arises out of a petition filed u/s 482 of Cr.P.C. to quash the proceeding in G.R. case No. 20 of 2003 arising out of Jankia P.S. case No. 6 of 2003 pending before the Court of S.D.J.M., Khurda.

2. The petitioner No.1 married Opp. party No.2 on 9.7.1995 in accordance with Hindu rites and their caste custom and led a happy conjugal life for about two years. Out of the wed-lock, they were blessed with a male child. But, as ill luck would have it, the child joined the majority. Thereafter, in course of time, the happy conjugal life ran into rough whether as petitioner No.1 and other petitioners, who are his relatives, started ill-treating opp. party No.2 because of non-fulfilment of their demand of dowry. On 2.1.2003 she was assaulted and forcibly ousted from the matrimonial home. Finding no other way, Opp. party No. 2 lodged an F.I.R. against the petitioners before the O.I.C. of Jankia P.S. which was registered as P.S. Case No. 6 of 2003 u/s 498-A/34 of I.P.C. read with Section 4 of D.P. Act. The case was investigated into and after completion of

investigation, charge sheet was submitted for the offences u/s 498-A/34 I.P.C. and Section 4 of the D.P. Act against the petitioners. The S.D.J.M., Khurda before whom the case is pending took cognizance of the said offences.

3. As per the petition u/s 482 of the Cr.P.C, in the meantime, due to intervention of the well wishers of the petitioners and the Opp. party No.2 they amicably settled their differences. Petitioner No.1 and opp. party No.2 jointly filed a petition u/s 13(B) of Hindu Marriage Act for mutual divorce, before the Court of learned Judge, Family Court, Cuttack vide C.P. No.284 of 2005. Opp. party No.2 is no more interested to prosecute the case because of the changed circumstances. She filed an affidavit in this regard. Hence, the petition u/s 482 of Cr.P.C. to quash the criminal proceeding as stated earlier.

4. Learned counsel for the petitioners submitted that in the meantime, the Judge, Family Court, Cuttack decreed C.P. No. 284 of 2005 and dissolved the marriage between the petitioner No.1 and opp, party No. 2 by his order dated 5.5.2005. When the differences between the parties have already been settled there is no use in proceeding with the G.R. case. In case it is allowed to proceed, both the parties would suffer immense hardship for a prolonged period and public money and valuable time of the Court would be wasted unnecessarily. Hence, according to the learned counsel for the petitioner, it is a fit case where this Court should quash the G.R. Case by exercising extraordinary jurisdiction vested on it u/s 482 of Cr.P.C. Per contra learned Addl. Standing Counsel contended that the offence u/s 498(A) I.P.C. and Section 4 of the D.P. Act are non-compoundable. If the offences are allowed to be compounded, then it would be inconsistent with the provision contained u/s 320 of Cr.P.C. So the CRLMC should be dismissed.

5. The petitioners have not sought for composition of the offences. They have filed the petition to quash the proceeding for securing the ends of justice, in view of the compromise effected between them. Generally, where there is specific provision in the Code relating to any matter, inherent power u/s 482 of Cr.P.C. should not be exercised. But in appropriate cases to secure the ends of justice such power can be exercised without any fetter. In view of the compromise between the parties and the divorce decree obtained on mutual consent of petitioner No.1 and opp. party No.2, even if the criminal proceeding is allowed to continue it would end in fiasco. So, it is a fit case where the inherent power bestowed on this Court u/s 482 of Cr.P.C. should be exercised in the interest of the parties and to save public money and valuable Court's time.

Under such circumstances, the Criminal proceeding in G.R. case No. 20 of 2003 pending in the Court of S.D.J.M., Khurda is hereby quashed.