

25.11.2020
CT No.19
Item No.14
pk

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

CRR No. 1633 of 2020
With
CRAN No. 1 of 2020

In the matter of:- Divyush Goenka & Anr.
petitioners

Mr. Antarikhya Basu,
Mr. Sayan Mukherjee,
Ms. Madhumita Basak for the petitioners

Mr. Dipanjan Dutt for the O.P. No. 2

On the basis of a complaint submitted by M/S. B.P. Projects Pvt. Ltd., duly represented by one Navin Jaiswal, police registered Serampore P.S. case No. 250 of 2020 under Sections 408/420/467/468/477A/120B of the Indian Penal Code against the present petitioners.

The dispute between the parties as learnt from the submissions made by the learned counsel for the accused/opposite parties is that the de facto complainant entrusted the accused persons to sell out the by products of their manufacturing articles, being zinc ash and zinc dross. The accused persons so entrusted received the goods but there was dispute regarding payment of sale proceed.

Over such dispute, the complaint was lodged.

Now the matter between the parties have been amicable settled and a memorandum of understanding has

already been executed. The said memorandum of understanding is annexed with the revisional application.

It is submitted on behalf of the petitioners relying on the decision of the Hon'ble Supreme Court in the case of Gian Singh -vs- State of Pubjab & Anr. reported in (2012) 10 SCC 303 that the power of the High Court for quashing of a criminal proceeding and the power to compound an offence under Section 320 of the Code of Criminal Procedure operate in two different fields. Inherent power of the High Court to quash a proceeding is having wide plentitude and the court can quash a proceeding or FIR (1) to secure ends of justice, or (2) to prevent abuse of the process of any court.

However, Section 320 operates exclusively within the statutory limit in respect of the offences delineated in the said Section for compounding.

It is submitted by the learned advocate for the petitioner that the dispute essentially arises out of breach of contract between the parties. Now the parties have arrived at an amicable settlement. Whatever may be the offences under which the case was instituted by the police, the same are absolutely private in nature. There is no social implication or the breach of contract by and between the parties does not have

serious impact on society. Therefore, the proceeding may be quashed.

Learned Advocate for the de facto complainant also submits that when the matter has been settled by and between the parties, he has no objection if the criminal proceeding is quashed.

None appears on behalf of the State.

In Anil Jain & Ors. -vs- State of Uttar Pradesh & Anr. reported in (2015) 15 SCC 707, the Hon'ble Supreme Court quashed a criminal proceeding under Sections 420/467/468/471 of the Indian Penal Code on the ground that an amicable settlement reached between the parties.

Following the same principle in the instant case, this court can also quash the criminal proceeding being Serampore P.S. Case No. 250 of 2020 corresponding to G.R. Case No. 1132 of 2020. Accordingly the abovementioned criminal proceeding is quashed. The instant revision along with CRAN 1 of 2020 are thus allowed, however without cost.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Bibek Chaudhuri, J.)