

16.12.2021
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C.R.R.277 of 2020

In the matter of Subrata Dutta & Ors.....petitioners.

Mr. Imran Siddiqui
Mr. Anirban Ghosh
...petitioners.

Mr. Soumya Kanti Chatterjee
...for the opposite party no. 3.

Mr. Binay Kumar Panda
Mr. Pravas Bhattacharyya
...for the State.

Affidavit of service filed today be kept with the record.

Mr. Binoy Kumar Panda along with Mr. Pravas Bhattacharyya, learned Advocates who usually appear on behalf of the State are requested to appear in this revisional application.

Learned Legal Remembrancer is requested to regularize the appointment of Mr. Binoy Kumar Panda and Mr. Pravas Bhattacharyya learned advocates in due course.

Learned Advocates on behalf of the contesting parties as well as the State to this revisional application are present.

It is submitted on behalf of the parties that they have filed a joint petition for compromise to settle the matter out of court between the parties.

The only question that demands considerable Judicial-Stirring is when once the legislature thought it fit to make the offence under Section 498A of the Indian Penal Code as non-compoundable, whether under Section 482 of the Code of Criminal Procedure, the High Court has got inherent power to permit the parties to compound such offence. It may be noted that even under the Hindu Marriage Act, where the parties made serious allegations of adultery, cruelty etc., the legislature still thought it fit to introduce a clause to the effect, that the court before commencement of the trial, has to make an attempt for re-conciliation. If that re-conciliation ended into fruitful success of making the parties re-united, the concerned Judge would not

proceed with the matter further. In the same breath, when serious allegations are made in complaint which made the court to take cognizance of the same, can we say that the court can continuing the proceedings involving non-compoundable offence even after the parties (husband and wife) compromise the matter voluntarily and filed application for permission to compound the offence? Whether it is necessary to drive them to go through the time consuming and costly process is one pertinent question.

The very object of Section 498A of the Indian Penal Code should not be allowed to become counter productive.

I do not think that object of Section 498A of the Indian Penal Code will be better achieved by allowing the prosecution to take its own course without regard to the rapprochement that has taken place between the couple in conflict.

The law was put into motion due to physical and mental torture and the case is pending before the learned C.J.M. Berhampore, District Murshidabad.

In a case of B.S.Joshi Vs. State of Haryana (2003) 4 SCC 675, the Hon'ble Apex Court has firmly laid down the proposition that in order to sub-serve the ends of justice, the inherent power under Section 482 of the Cr.P.C. can be exercised by the High Court to quash the court proceedings at the instance of husband and wife who have amicably settled the matter and desirous of putting end to the acrimony.

Considering the facts and circumstances discussed above, I do not find any reason to stand in the way of compromise between the parties.

Thus, the criminal proceeding being G.R.Case No. 16 of 2004 under Section 498A of the IPC in connection Beldanga P.S. Case No. 05 of 2004 dated 4.1.2004 stands quashed.

Thus the revisional application along with CRAN application 1 of stands disposed of.

The learned Registrar(Judicial Services) is requested to communicate this order to the learned Chief Judicial Magistrate, Berhampore, District-Murshidabad forthwith.

(Bibhas Ranjan De, J.)