

Court No.
35
Item 2 & 3
tbsr

24.09.
2021

CRR 1616 of 2021
CRAN 1 of 2021
With
CRR 1825 of 2021
CRAN 1 of 2021

Re: An application under Section 482 of the Code of Criminal Procedure, 1973.

In the matter of:- Soumyajit Ghosh

.....petitioner

Mr. Anirban Banerjee

...for the petitioner

Ms. Tulika Dutta Ghosh

..... opposite party no. 2-in-person

Ms. Sukanya Bhattacharyya,
Mirza Firoz Ahmed Begg

....for the State

The facts and circumstances involved in these two cases are somewhat peculiar.

In both the cases the petitioner is the husband of opposite party no. 2/de-facto complainant.

The opposite party no. 2 initially implicated the petitioner in a case being Special Case No. 42 of 2018 under Sections 376/417/313/120B of the Indian Penal Code, 1860, read with Section 4 of the Protection of Children from Sexual Offences Act, pending before the Special Court (POCSO Act) at Barasat.

Upon completion of the investigation, the charge-sheet was filed against the petitioner, but before the charge sheet was filed, the petitioner and opposite party

no.2 got married on 3rd August 2018.

The opposite party no.2, after solemnisation of the marriage, again lodged a complaint against the petitioner and her in-laws, which resulted in filing another charge-sheet under Section 498A/195/34 of the Indian Penal Code against the petitioner and her in-laws. The said case is now pending before the Court of Chief Judicial Magistrate at Barasat as G.R. Case No. 101 of 2019.

The petitioner has filed CRR No. 1825 of 2021 for quashing of the aforesaid Special Case No. 42 of 2018 on the ground of compromise. The opposite party no.2 and the petitioner have also filed an application being CRAN No. 1 of 2021 stating, *inter alia*, that the disputes between the parties have been amicably settled, and the parties have filed a mutual divorce petition which is pending before the competent Court of law. It has been agreed upon that the petitioner will pay a sum of Rs. 50,000,00/- (rupees fifty lakh only) to the opposite party no. 2 as a full and final settlement of her claim. It has, further, been submitted that the opposite party no. 2, has already received a sum of Rs. 35,000,00/- (rupees thirty five lakh only) in terms of the said settlement.

CRR No. 1616 of 2021 has been filed by the petitioner for quashing the proceeding being G.R. Case no. 101 of 2019. In this case also the petitioner and opposite party no. 2 has jointly, by filing an application

being CRAN 1 of 2021, prayed for quashing of the proceeding in view of the settlement arrived by them as indicated before.

It appears that in CRR No. 1616 of 2021 only the petitioner has come up for quashing the said proceeding. The other accused persons are not party in the said application.

Since it appears that the disputes between the parties have been amicably settled and the opposite party no. 2 is not willing to proceed with the said two criminal proceedings any further, in my view, there is no justification for the continuation of the said two cases.

It has been held by the Supreme Court in the case reported at **(2019) 5 SCC 688 (State of Madhya Pradesh -Vs- Laxmi Narayan)** as follows:-

“15.Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.1. That the power conferred under [Section 482](#) of the Code to quash the criminal proceedings for the non-compoundable offences under [Section 320](#) of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

.....

15.5.While exercising the power under [Section 482](#) of the Code to quash the criminal proceedings in respect of

non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc.”

In that view of the matter the Special Case No. 42 of 2018 pending before the learned Additional Sessions Judge (Special Court), Barasat under Section 376/417/313/120B of the Indian Penal Code, 1860, read with Section 4 of the Protection of Children from Sexual Offence Act, 2012, stands quashed. It has, further, been submitted that other accused persons in connection with the said case have already been discharged by the said Special Court.

G.R. Case No. 101 of 2019 under Section 498A/195/34 of the Indian Penal Code pending before the learned Chief Judicial Magistrate, Barasat also stands quashed only against the petitioner since other accused persons have not filed any application to that effect before this Court.

With the aforesaid directions CRR No. 1825 of 2021 with connected application being CRAN No. 1 of 2021 and CRR No. 1616 of 2021 with connected application being CRAN No. 1 of 2021 are disposed of.

All parties are directed to act on a server copy of this order, duly downloaded from the official website of this Court.

(Kausik Chanda, J.)