

24.03.2021
Ct. No. 35
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C.R.R. No. 2991 of 2017
with
CRAN 2 of 2018 (Old No. CRAN 609 of 2018)
with
CRAN 6 of 2021
(via video conference)

In the matter of : Debal Sen petitioner

Mr. Debasish Roy
Mr. Brajesh Jha
Mr. Ravi R. Kumar
Mr. Saket Sharma
..... for the petitioner

Mr. S. G. Mukherjee, learned P.P.
Mr. M. Sur, learned APP
Mr. Pratik Bose
Mrs. Debjani Sahu
..... for the State

Mr. Sabyasachi Banerjee
Mr. Abhijit Chowdhury
Mr. Abhra Sen
..... for the opposite party no. 2

The present application under Sections 397/401 read with Section 482 of the Code of Criminal Procedure has been filed by the petitioner praying for quashing of the order dated 30.08.2017 passed by the learned Special Judge, Bench-I (NDPS Act), City Sessions Court at Calcutta in connection with S.C. Case No. 23 of 2017 arising out of Shakespeare Sarani Police Station Case No.

270 of 2014 dated 12.08.2014 under Sections 417/376/506 of the Indian Penal Code.

By the impugned order, the learned Trial Court rejected the prayer of the petitioner for discharging him from the instant case.

During pendency of hearing of the present application the petitioner and the opposite party no. 2 have come up with a joint petition for compromise being CRAN 6 of 2021 wherein they have stated that the dispute has been amicably settled between them and opposite party no. 2 is no longer interested in proceeding with the case before the learned Trial Court any further. The parties have prayed for quashing of the proceedings pending before the learned Trial Court.

Learned Public Prosecutor for the State opposes the contention of the petitioner and opposite party no. 2 and submits that as the offence alleged is under Sections 417/376/506 of the Indian Penal Code which are not compoundable, the case is required to be disposed of on merits and cannot be quashed at this initial stage, more so, as the allegations are extremely serious in nature.

It is a fact that though offence under Sections 417/506 of the Indian Penal Code is compoundable under Section 320 of the Code of Criminal Procedure, Section 376 is not. But at the same time it should be borne in mind that the jurisdiction of the Court under Section 320 of the Code of Criminal Procedure can be distinguished from that of Section 482 of the Code. Under

Section 482 of the Code, the Court is within its jurisdiction to quash the proceedings irrespective of offence being compoundable or not, upon being convinced that it is required for securing the ends of justice. There is no straitjacket formula regulating the exercise of inherent power under Section 482 of the Code. Quashing of proceedings on the ground of settlement between the victim and the offender cannot be equated with compounding of offence. When disputes which are personal in nature as in the present case, are resolved by the parties, continuation of the criminal proceeding would tantamount to abuse of the process of law.

In this connection, reliance may be placed on the authority in *Gian Singh vs. State of Punjab & Anr.* reported in (2012) 10 SCC 303.

In the present case, as the petitioner and opposite party no. 2 have settled the matter between themselves amicably and as opposite party no. 2 does not intend to proceed with the case any further, it is evident that chances of conviction is bleak and allowing the case to continue shall only amount to wastage of judicial hours and abuse of process of the Court.

In the premise, I am inclined to hold that the proceedings being S.C. Case No. 23 of 2017 arising out of Shakespeare Sarani Police Station Case No. 270 of 2014 dated 12.08.2014 under Sections 417/376/506 of the Indian Penal Code pending before the learned Special Judge, Bench-I (NDPS Act), City

Sessions Court at Calcutta is liable to be quashed on the basis of compromise arrived at by and between the parties.

Accordingly, the revisional application being CRR No. 2991 of 2017 is disposed of.

The connected applications being CRAN 2 of 2018 (Old No. CRAN 609 of 2018) and CRAN 6 of 2021 are also disposed of.

Proceedings being S.C. Case No. 23 of 2017 arising out of Shakespeare Sarani Police Station Case No. 270 of 2014 dated 12.08.2014 under Sections 417/376/506 of the Indian Penal Code pending before the learned Special Judge, Bench-I (NDPS Act), City Sessions Court at Calcutta is quashed.

There will be no order as to costs.

Copy of this order be sent to the learned Trial Court forthwith for necessary compliance.

Urgent certified website copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Suvra Ghosh, J.)