

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 37 of 2020

Biprajit Sinha Roy

Vs.

The State of West Bengal & Anr.

For the Petitioner : Mr. Manjit Singh.

For the State : Mr. Madhusudan Sur,
Mr. Manoranjan Mahata.

Heard on : 16.11.2022

Judgment on : 24.11.2022

Shampa Dutt (Paul), J.:

The Revisional application has been filed praying for quashing of the proceedings in G.R. Case No. 1063 of 2018 being Baranagar police station Case No. 123 of 2018 for offence punishable under sections 498A/406/506/34 of the Indian Penal Code pending before the learned Additional Chief Judicial Magistrate, Barrackpore.

The petitioner/husband's case is that on October 11, 2013 the opposite party no. 2/wife filed a written Complaint with Baranagar police station against three accused persons including the petitioner here in.

On completion of investigation police submitted charge sheet and the Learned Magistrate was pleased to take cognizance.

The proceedings in the said case has been quashed in respect of the other two accused persons vide order dated 22.05.2019 in CRR 3472 of 2018 of this court.

The petitioner states that the petitioner stands on the same footing as that of the other accused persons against whom this Hon'ble Court was pleased to quash the proceeding vide judgment and order dated May 22, 2019 passed in CRR No. 3472 of 2018.

That the petitioner is innocent and in no way connected with any offence alleged herein.

That the instant case has been initiated to pressurize the petitioner to dissolve the marriage. The opposite party no. 2 in order to achieve her objective to withdraw from the marital ties had filed an application under section 27 of the Special Marriage Act, 1954 praying for the dissolution of marriage. The same was registered as Matrimonial Suit no. 597 of 2018.

Mr. A. Basu, Learned Counsel for the petitioners files a letter (E-mail) dated 16th November, 2022, written by the opposite party no. 2/complainant stating the **“the dispute has been settled and divorce has taken place. I have no objection if the Criminal Case is quashed”**.

A copy of the order of Divorce by Mutual Consent under Section 28 of the Hindu Marriage Act in Mat Suit 166 of 2022 passed by the Learned Additional District Judge, 3rd Court, Barrackpore, has also been filed.

The Counsel for the petitioner prays that accordingly the proceedings against the petitioner may be quashed.

Mr. M. Sen, Learned Counsel for the State submits that considering the materials on record, necessary orders may be passed by this court.

Heard both sides and perused the materials on record.

Considering the letter (E-mail) sent by the complainant and the fact that the parties are now divorced by mutual consent, this court relies upon the following ruling of the Supreme Court :

The Three Judge Bench of the Court in **(2012) 10 Supreme Court Cases, 303, Gian Singh vs State of Punjab** and another has cleared the position in respect of the power of the High Court in quashing a criminal proceedings in exercise of its inherent jurisdiction in para 61 of the judgment, which is reproduced here in:-

“The position that emerges from the above discussion can be summarised thus : the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz. : (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or

such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

In Anita Maria Dias & Anr. vs The State of Maharashtra & Anr.

(2018) 3 SCC 290.

The Court held:-

- (a) Offences which are predominant of civil character, commercial transaction should be quashed when parties have resolved their dispute.*
- (b) Timing of settlement would be crucial for exercise of power or declining to exercise power (stage of proceedings).*

The materials on record clearly shows that an amicable settlement and compromise has been arrived at between the parties and the complainant does not wish to proceed with the G.R. case against the petitioner being no. 1063 of 2018 pending before the Learned Additional Chief Judicial Magistrate, Barrackpore.

From the materials on record, it is clear that dispute in the present case **is a matrimonial dispute and is private in nature** and the parties have now resolved their entire dispute by way of a compromise/settlement and divorce by mutual consents. As such the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice could be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the complainant. (As in the words of the Supreme Court in ***Gian Singh Vs. State of Punjab and another***).

As such this court is of the view that it would be unfair and contrary to the interest of justice to continue with the criminal proceedings which would tantamount to abuse of process of law in view of the settlement arrived at between the parties in respect of their dispute and to secure the ends of justice it would be prudent to quash the proceedings in the case as prayed for. The present status of the case before the Trial Court is that chargesheet has been filed and cognizance has been taken, and it is presumed that trial might have not commenced as yet.

Accordingly, the revisional application being CRR 37 of 2020 is allowed.

Proceedings being G.R. Case No.1063 of 2018 relating to Baranagar, P.S. Case no. 123 of 2018 under Section 498A/406/506/34 of the Indian Penal Code pending before the Learned Additional Chief Judicial Magistrate, Barrackpore, is hereby quashed.

There will be no order as to costs.

All connected Application stand disposed of.

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

Urgent Photostat Certified copy of this Judgment, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Shampa Dutt (Paul), J.)