

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

IA No: CRAN/1/2022

In

C.R.R. 531 of 2022

Goutam Prasanna Kar

Vs.

The State of West Bengal & Anr.

**For the petitioner : Mr. Moyukh Mukherjee, Adv.
Mr. Shakti Halder, Adv.
Mr. Sarthak Mondal, Adv.**

**For the O.P. : Mr. Soumik Ganguli, Adv.
Mr. Sourat Nandy, Adv.**

**For the State : Ms. Faria Hossain, Adv.
Mr. Anand Kesari, Adv.**

Heard on : 29.11.2022

Judgment On : 29.11.2022.

Bibek Chaudhuri, J.

Specific allegation against the petitioner is that marriage of the petitioner was settled with the de-facto complainant on the basis of negotiation by the family members of both the parties. After the marriage being settled, the de facto complainant induced her on false promise of marriage and established physical relationship.

Subsequently the petitioner refused to marry the de-facto complainant who compelled her to lodge a complaint before the Officer-in-Charge of the jurisdictional police station resulting in institution of Tamluk Police Station case No.1062 of 2021 under Sections 376/417 of the Indian Penal Code.

The learned Advocate for the petitioner submits that the dispute between the parties have been amicably settled. The de-facto complainant was major at the time of commission of alleged offence. She was a consenting party. In view of such circumstances and specially when the de-facto complainant does not want to proceed with the case against the petitioner, the criminal case may be dropped. This Court directed the Officer-in-Charge of the jurisdictional Police Station to submit a report informing this Court as to whether a voluntary settlement was arrived at or not. The police submitted such report.

However, from the very allegation made by the de-facto complainant, it is ascertained that before establishment of physical relationship, her consent was obtained under mis-conception of fact. It is needless to say that the consent based on "mis-conception of fact" is not a voluntary consent in the eye of law. When a woman is made to be involved in sexual relationship on false promise of marriage and her consent was obtained of "mis-conception of fact",

such consent amounts to no consent or absence of consent. Decision of the Hon'ble Supreme Court in ***Pramod Suryabhan Pawar Vs. State of Maharashtra & Anr.*** reported in **(2019) 9 SCC 608** may be relied on in this regard.

In view of such circumstances, this Court is of the considered opinion that criminal proceeding against the petitioner shall continue.

Thus, I do not find any merit in the instant revision and accordingly the revisional application is **dismissed**.

CRR 531 of 2022 along with CRAN 1 of 2022 stand disposed of accordingly.

The report be kept with the record.

(Bibek Chaudhuri, J.)

**Mithun De/
A.R. (Ct).
SI No.6..**