

CRR 415 of 2019

In the matter of: Partha Sana & Ors.

....petitioners.

Mr. Jayanta Narayan Chatterjee
Ms. Nandini Chatterjee
Mr. Narin Ahmed
Mr. Supreem Naskar
Ms. Jayasree Patra
Ms. Sreeparna Ghosh
Ms. Ritushree Banerjee
Ms. Pritha Sinha
Ms. Dipanwita Das

... for the Petitioners.

Mr. Saswata Gopal Mukherjee
Ms. Debjani Sahu
Mr. Saryati Dutta

... for the State.

This revisional application has been preferred for quashing of the proceeding in G.R. No.5009 of 2014 arising out of Basirhat Police Station Case No.1442 of 2014 dated November 15, 2014.

Mr. Jayanta Narayan Chatterjee, learned counsel for the petitioners submits that the petitioner no.1 got married to the opposite party no.3 on August 12, 2013 and the petitioner nos.2, 3, 4 and 5 herein are the father-in-law, mother-in-law, brother-in-law and sister-in-law of the opposite party no.2 respectively. The opposite party no.2 is the father of opposite party no.3 and is the defacto complainant of the present police complaint. As the parties could not adjust themselves, they started residing separately from November 15, 2014. During such misunderstanding, the opposite party no.2 lodged a written complaint at Basirhat Police Station being Basirhat P.S. Case No.1442 of 2014 dated November 15, 2014 under Sections 498A/307/406/120B of the Indian Penal Code.

After completion of investigation, the investigating authority submitted charge-sheet on November 15, 2014 and the learned

Additional Chief Judicial Magistrate took cognizance of the aforesaid offence.

Subsequently, a settlement has been arrived at by and between the parties and the petitioner no.1 and the opposite party no.3 mutually filed an application under Section 13B of the Hindu Marriage Act and in view of the Order No.7 dated March 15, 2019, the matrimonial relationship between the parties got dissolved by mutual consent.

In view of the aforesaid subsequent event and considering the present conduct of the petitioner and the opposite party nos.2 and 3, it would be an abuse of process of Court if the impugned proceeding is allowed to continue. Accordingly, petitioners have prayed for quashing of the aforesaid impugned proceeding.

Mr. Saswata Gopal Mukherjee, learned Public Prosecutor appearing for the State, raised strong objection and he has drawn my attention to the various materials in the case diary including the injury report.

It appears from the materials in the case diary including the statement recorded under Section 164 of the Code of Criminal Procedure and the injury report, a prima facie case in support of charge is established, which involves fair question of trial. Allegation made in the complaint is serious in nature.

In ***Narinder Singh and Others vs. State of Punjab and Another*** reported in **(2014) 6 SCC 466**, the Hon'ble Apex Court held:-

“29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or***
- (ii) to prevent abuse of the process of any court.***

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such

offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.” (emphasis added)

From the materials in the case diary it appears that in the present case Section 307 has not been incorporated merely for the sake of it and the prosecution has collected evidence in support of charge which if proved before the trial court may lead to conviction.

In view of the above, I find that this is not a fit case where the proceeding initiated can be quashed merely because parties have amicably settled their dispute or that they have mutually dissolved their marital status.

Accordingly, CRR 415 of 2019 is dismissed.

However, the trial court is requested to expedite the trial and to dispose of the trial preferably within a period of six months.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Ajoy Kumar Mukherjee, J.)