

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 633 of 2020

With

CRAN 2 of 2022

Mohar Daschaudhuri.

Vs.

The State of West Bengal & Anr.

For the Petitioner	: Mr. Dipanjan Dutt, Mr. Surojit Saha.
For the State	: Mr. Tanmoy Kr. Ghosh, Mr. Arindam Sen.
For the Opposite Party	: Mr. Anirban Dutta, Mr. Debabrata Das, Mr. Pradyut Kr. Das, Ms. Saptarshi Mukherjee.

Heard on : 26.09.2022

Judgment on : 15.11.2022

Shampa Dutt (Paul), J.:

The Revisional application under Section 482 of code of Criminal Procedure has been filed by the petitioner/accused praying for quashing of the proceeding of Complaint Case No. C – 138 of 2017, under section 500/501 of the Indian Penal code, pending before the Court of the Learned Judicial Magistrate, 6th Court, Alipore, South 24 Parganas, filed by the opposite party no. 2/complainant.

The complainant's case before the Learned Magistrate, was alleging commission of offences by the petitioner under Sections 500/501 of the Indian Penal Code. It is alleged that the opposite party no. 2 married one A.K. Ganguly and maintained healthy marital relationship. The opposite party no. 2 belongs to a reputed family and holds a valuable social prestige and is presently a widow after the demise of her husband.

The petitioner has alleged that the opposite party no. 2 has connection with womanisers. That such allegation has allegedly lowered the prestige of the opposite party no. 2.

That the opposite party no. 2 is in no way involved with any illegal activities, as such the statements are conflicting, false, misleading, malicious and derogatory in nature and are a blatant attempt to tarnish the image of the opposite party no. 2 in society.

That the opposite party no. 2 holds goodwill and reputation in society.

The Learned Chief Judicial Magistrate, Alipore took cognizance and the case was transferred to the Learned Judicial Magistrate, 6th Court for disposal, who on taking evidence under Section 200 of Code of Criminal Procedure and directed the officer-in-charge of New Alipore police station to investigate and submit a report in terms of Section 202 Cr.P.C.

The police submitted a report on investigation and the learned Magistrate on satisfaction, considering the materials on record issued process against the petitioner. The prayer in revision is for quashing of the total proceedings.

Mr. Anirban Dutta, Learned Advocate for the opposite party no. 2 has submitted that the parties to this case being the petitioner and the opposite party number 2 have **filed a joint application of compromise on affidavit**, between the parties (CRAN 2/2022) Court stating there in that a settlement has been arrived at between the parties and on the basis of the said settlement the joint applicants have submitted that the proceedings of complaint Case no. C - 138 of 2017, pending before the learned Judicial Magistrate, 6th Court, Alipore, may be quashed. The complainant has, on oath/affidavit submitted that the matter has been amicably settled and she has no objection if the proceedings are quashed as prayed for.

Considered the said stand and materials on record and the joint compromise arrived at between the parties and submitted by way of a joint application CRAN 2 of 2022 on affidavit before this Court and also considered the submissions of the learned lawyers for both sides.

The following rulings are relied upon by this Court considering the facts and circumstances of the case herein:-

(1) (2012) 10 Supreme Court Cases, 303.

(2) (2018) 3 Supreme Court Cases, 290.

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 joint application on affidavit filed by the parties clearly show that an amicable settlement and compromise has been arrived at between the parties and the complainant has submitted that she does not wish to proceed with C – 138 of 2017, before the Ld Judicial Magistrate, 6th Court Alipore and the proceedings may be quashed.

From the materials on record it is clear that the facts and circumstances in the present case is a personal dispute between the parties and is private in nature and the parties have now resolved their entire dispute by way of a compromise/settlement on affidavit and 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***) (**supra**).

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.

The present status of the case before the Ld. Magistrate is that summons have been issued. The application for compromise/settlement be made part of the record.

Accordingly, the revisional application being CRR 633 of 2020 is allowed.

Proceedings being compliant Case No. C - 138 of 2017 pending before the Ld. Judicial Magistrate, 6th Court, Alipore, South 24 Parganas, under Sections 500/501 of the Indian Penal Code 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.)