

30.06.2022

Item No.62
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 526 of 2019

In the matter of : **Nur Hadia Sams Mallick**

... Petitioner.

Mr. Dipanjan Chatterjee,
Mrs. Puja Kar

... For the Petitioner.

Mr. Saibal Bapuli,
Mr. Imran Ali,
Mr. Bibaswan Bhattacharya

... For the State.

The present revisional application has been directed for quashing of Special Case No. 225 of 2017 pending before learned Judge, Special Court & 2nd Additional Sessions Judge, Alipore arising out of Bishnupur Police Station Case No. 866 of 2017 dated 22.09.2017 under Sections 363/365/376/120B of the Indian Penal Code read with Section 6 of the Protection of Children from Sexual Offences Act, 2012.

During the pendency of the present proceeding, Investigating Officer of the case has recorded statement of the victim on 27.06.2022 in compliance with order dated 21.06.2022. Let the said statement of the victim be kept with the record.

On perusal of the said recorded statement of the victim, it appears that the alleged victim viz. Priya Mondal @ Priya Mallick has categorically stated before the Investigating Officer that she and the present petitioner viz. Nur Hadia Sams Mallick have married each other, according to Muslim

Shariat Law in 2018 and at present they are living peacefully as husband and wife and they are also blessed with a child viz. Danial Mallick, who is now aged about 2 years 7 months. The said victim/opposite party no.3 has categorically stated that she does not want to proceed with the case as she is happy with her present matrimonial life and wants to continue her matrimonial life peacefully in future.

Mr. Imran Ali, learned counsel for the State submits that he has nothing to say in respect of the amicable settlement that has been arrived at by and between the parties.

In view of the facts and circumstances of the case, it appears that no fruitful purpose will be served in continuing with the present proceeding as in view of amicable settlement arrived at by and between the parties, there is not even remote chance of conviction of the petitioner in the present case. In ***B.S. Joshi & others Vs. State of Haryana & another* (2003) 4 SCC 675**, Apex Court in a similar circumstance was pleased to observe:-

“There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Penal Code, 1860 was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hypertechnical view would be counterproductive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Penal Code, 1860.”

“In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code”.

Considering the fate of trial in the backdrop that defacto complainant and her relatives will not depose against petitioner in view of settlement, which has been reflected from her statement as above , I am of the view that this is a fit case where invoking power under Section 482 of the Code of Criminal Procedure, the present proceeding is required to be quashed.

Accordingly, the proceeding being Special Case No. 225 of 2017 arising out of Bishnupur Police Station Case No. 866 of 2017 dated 22.09.2017 under Sections 363/365/376/120B of the Indian Penal Code read with Section 6 of the Protection of Children from Sexual Offences Act is hereby quashed.

In view of above, CRR 526 of 2019 is allowed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Ajoy Kumar Mukherjee, J.)