

Form No. J(2)

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

**Present:
The Hon'ble Justice Jay Sengupta**

C.R.R. 1054 of 2022

Biswa @ Biswajit Sarkar

-vs-

The State of West Bengal & Anr.

For the Petitioner : Mr. Susnigdho Bhattacharyya
...Advocate

For the Opposite party No. 2 : Mr. Debapriya Majumder
...Advocate

Heard on : 05.04.2022

Judgment on : 05.04.2022

Jay Sengupta, J.:

This is an application for quashing of an investigational proceeding under Sections 376 and 509 of the Indian Penal Code.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is an accused in this case while the

opposite party no.2 is the defacto-complainant victim. It was alleged by the victim that on the date of occurrence, the petitioner took him inside by force and committed rape upon her. The proceeding was initiated due to some misunderstandings between the private parties. Actually the defacto-complainant had an affair with the present petitioner, but the husband of the opposite party no.2 forced her to lodge the present First Information Report. At present, they are staying together and a compromise and settlement has been arrived at between the private parties.

Learned counsel appearing on behalf of the defacto-complainant opposite party submits as follows. A compromise and settlement has indeed been arrived at between the private parties and they two are staying together. In fact, it was at the insistence of the husband of the opposite party no.2 that this proceeding was instituted. At present, the opposite party no.2 does not want to proceed with the case.

I have heard the submissions of the learned counsels appearing on behalf of the private parties and have perused the revision petition.

An offence under Section 376 of the Penal Code is one of the most serious offences mentioned in the Indian Penal Code. This is not only an offence against a particular individual, but is a crime against the society at large.

One cannot be allowed to first file a complaint under such provision and then take a different stand subsequently even before the proceeding can be brought to its logical conclusion.

A different stand can be taken due to several reasons. These could also be due to undue influence, coercion or some pecuniary consideration. Our law does not encourage any of these considerations to make the victim recant and take a different stand at a subsequent stage. Therefore, one needs to be very cautious and circumspect.

An offence under Section 376 of the Penal Code simpliciter cannot be settled or compromised. When the proceeding has started, it has to run its course and be brought to its logical end.

In view of the same, I do not find any merit in this revisional application.

Accordingly, the same is dismissed.

However, there shall be no order as to costs.

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

(Jay Sengupta, J.)