

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 714 of 2019

Pitesh Saha

Vs.

State of West Bengal & Anr.

For the Petitioner : Mr. Anupam Hait.

For the State : Ms. Zareen N. Khan,
: Md. Kutubuddin.

Heard on : 30.11.2022

Judgment on : 02.12.2022

Shampa Dutt (Paul), J.:

The Revisional application is moved praying for quashing of proceeding in Sonarpur Police Station Case No. 434 of 2009 (GR No. 2062 of 2009) under Section 498A/406/323/34 of Indian Penal Code, pending before the Learned Additional Chief Judicial Magistrate at Baruipur, by the petitioner/husband against the said case filed by his wife/opposite party no. 2/complainant.

The opposite party no. 2/complainant filed the present case in which charge sheet has been filed on 31.12.2009.

Inspite of due service the opposite party no. 2 has not appeared.

Learned Counsel for State has filed the case diary.

The Counsel for the petitioner has filed an attested copy of the decree of divorce on mutual Consent under Section 13B of Hindu Marriage Act, from which it is clear that the marriage between the petitioner and opposite party no. 2 in this case has been dissolved by a decree of divorce by mutual consent on 14.02.2019 in Matrimonial suit No. 3376/ 2018 passed by the Learned District Judge, South 24 Parganas, Alipore.

An attested copy of the petition in Matrimonial Suit No. 3376/2018 has also been filed. In paragraph 5 of the petition it is categorically stated that –

“5. That the petitioner No. 2/Husband is agreed to pay a sum of Rs. 4,00,000/- (Rupees Four Lakhs) only as permanent alimony to the petitioner No. 1/Wife by Bank Draft before final hearing of this instant application for divorce on mutual consent and on disposal of this Mutual Divorce Petition the

both the parties shall withdraw their respective cases vide Act VIII Case No. 61/2012 pending before the Ld. 9th Addl. District Judge at Alipore, AC No. 3116/2011 and M. Ex 342/2016 pending before the Ld. 3rd Judicial Magistrate at Alipore. Mat Suit No. 73/2019 & Misc. Case No. 198/2017 pending before the LD. 10th Addl. District Judge at Alipore and the petitioner no. 1 shall withdraw Sonarpur PS Case No. 434/2009 (G.R. No. 2062/2009 after the Learned Addl. Chief Judicial Magistrate, Baruipur by taking proper steps”.

As the said petition has been considered and allowed by the court granting the decree of divorce, and as the case in the present revision being Sonarpur Police Station no. 434 of 2009, which has also been mentioned in paragraph 5 in the said petition, stating that this case among others shall also be withdrawn, the said procedure of withdrawal is to be done through the appropriate court.

Accordingly the present Revision is disposed of being ‘infructuous’.

No order as to costs.

All connected applications stand disposed of.

Let a copy be sent to the trial Court 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.)