

17.08.2022
Item No.3.
Mithun
Ct.42

IA No:CRAN/1/2021
In
CRR 1155 of 2021
Dushyant Patel & Anr.
Vs.
The State of West Bengal & Anr.

Mr. Sandipan Ganguly, Sr. Adv.
Mr. Arkadeb Bhattacharya, Adv.
...for the petitioners.

Mr. Dipanjan Dutt, Adv.
...for the O.P.No.2.

Mr. Saswata Gopal Mukherjeel, Ld.P.P.
Mr. Zareen N. Khan, Adv.
Md. Kutubuddin, Adv.
...for the State.

On the basis of an order dated 5th August, 2022, the Investigating Officer has submitted a report along with a statement made by the de-facto complainant before him.

There are two issues to be answered in the instant revision, viz, in view of an application for effectuating joint compromise and settlement of the dispute filed by both the petitioner and the private opposite party, the criminal case can be compounded, and secondly, whether an offence, charge-sheeted, under Sections 376/511 of the Indian Penal Code can be compounded under the

inherent power of this Court under Section 482 of the Code of Criminal Procedure.

It is pertinent to mention at the outset that the opposite party No.2/de-facto complainant is the married wife of the friend of petitioner No.1. Petitioner No.1 was introduced with the opposite party No.2 by her husband. Subsequently they came together socially and an emotional attachment grew up in the mind of the opposite party No.2 for petitioner No.1. Taking advantage of such emotional attachment, the petitioner No.1 allegedly requested the opposite party No.2/de-facto complainant to hand over her ornaments to him as he was suffering loss in his business. The opposite party No.2 on good faith handed over entire family jewellery worth Rs.64,00,000/- to the petitioner No.1. On the fateful day, the opposite party No.2 demanded her ornaments back. The petitioner No.1 told him to come to his place. When she reached the residence of the petitioner No.1, she was taken to his bedroom and the petitioner pushed her back as a result of which she fell down on the cot. Then the petitioner No.1 allegedly threatened her to ravish if she wanted the jewellery back from him.

On bare perusal of the written complaint, I do not find any semblance of ingredients of commission of offence under Sections 376/511 of the Indian Penal Code. At best a case under Section 354 can be made out from the written complaint as well as the statement made by the de-facto complainant during investigation of the case.

It is submitted by both the parties that the disputes has been amicably settled between them. Beside Sections 376/511 of the Indian Penal Code, charge-sheet has been filed against the petitioners under Sections 406/420/341/411 of the Indian Penal Code.

So far as the allegation of criminal misappropriation of property and cheating are concerned, it is found from the case diary that the ornaments and jewellery of the de-facto complainant were recovered from petitioner No.2 with whom the petitioner No.1 had mortgaged. It is also ascertained that the seized ornaments were already handed over to the de-facto complainant by an order dated 16th August, 2019 passed by the learned Chief Judicial Magistrate at Alipore.

In view of such factual background and subsequent development in the case, this Court is of the view that continuation of hearing in connection with CGR Case No.2385 of 2019 would be a fruitless effort and hence abuse of the process of the Court.

Relying on the guidelines laid down in ***Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur & Ors. Vs. State of Gujarat & Anr.*** reported in ***(2017) 9 Supreme Court Cases 641***, this Court is of the view that under the present facts and circumstances, continuation of the proceeding in CGR Case No.2385 of 2019 will fetch no fruit ultimately and relying on the principle laid down by the Hon'ble Supreme Court in the aforementioned case, this Court holds that under inherent power of this Court under Section 482 of the Code of Criminal Procedure, this Court can quash further proceeding in CGR Case No.2385 of 2019 pending before the learned Chief Judicial Magistrate at Alipore.

Accordingly, on the basis of settlement arrived at by and between the parties, further proceeding in CGR Case No.2385 of 2019 pending

before the learned Chief Judicial Magistrate at Alipore be quashed.

The learned Chief Judicial Magistrate, Alipore is directed to return the seized ornaments to the de-facto complainant forthwith.

The parties are at liberty to act upon the server copy of the order. On production of the server copy of the order, the learned Chief Judicial Magistrate shall pass necessary order.

(Bibek Chaudhuri, J.)