

22.6.2022
Court No.34
Sl. No. 48
SD

CRR 1212 of 2019
With
CRAN 3 of 2020
(Old CRAN 485 of 2020)

In the matter of: Agnijoy Das & Anr.

....petitioners.

Mr. Pawan Kr. Gupta
Ms. Sofia Nesar
Mr. Santanu Sett
Mr. Soumyo Khan

... for the Petitioners.

Mr. Rudradipta Nandy
Ms. Sreyashee Biswas
Ms. Sonali Das

... for the State.

Affidavit of service filed by the petitioners be kept with the record.

This revisional application has been preferred for quashing the proceeding in connection with Kotwali Police Station Case No.791 of 2015 dated July 16, 2015 under Sections 498A/323/506/313/406/34 of the Indian Penal Code.

In spite of service of notice, none appears on behalf of the opposite party no.2, Moumita Mishra.

In view of the submissions relating to amicable settlement made by the petitioners on earlier occasion, the investigating officer was directed to record further statement of defacto complainant and accordingly, the investigating officer has recorded the statement of said Moumita Mishra and it appears from the said statement that she has categorically stated that her earlier marriage with the present petitioner has got dissolved by way of divorce and after that she had married one Antoni Moshi and at present she is residing peacefully with her present husband and she does not want to involve with the

present case anymore and prayed for disposal of the case accordingly.

Mr. Rudradipta Nandy, learned counsel appearing on behalf of the State, submits that they have nothing to say about the settlement that had already taken place in between the parties.

Having considered the statement made by opposite party No. 2/victim before I.O., it appears that there is no reasonable likelihood of the accused being convicted of the offence. The fate of the trial is clear where the wife does not want to support the imputations made in the complain. The reason may be she has resolved dispute with her earlier husband and dissolved marital status and she started new life with her present husband. In the above back ground it would not be proper to take hypertechnical view for not quashing the proceeding on the ground that amicable settlement has nothing to do with a non-compoundable offence.

In this context, I would like to refer observation made by Apex Court in ***B.S. Joshi Vs. State of Haryana*** reported in **(2003) 4 SCC 675**, para 14 needs as follows:-

“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, the entire proceeding is quashed. CRR 1212 of 2019 along with CRAN 3 of 2020 (Old CRAN 485 of 2020) is disposed of.

(Ajoy Kumar Mukherjee, J.)