

31.8.2022  
Court No.35  
Sl. No.3  
SD

**CRR 1958 of 2018**  
**With**  
**CRAN 3 of 2019**  
**(Old CRAN 3133 of 2019)**

In the matter of: Vivek Philip Mendes

....Petitioner.

Mr. Phiroze Edulji  
Mr. Mohit Gupta  
Mr. Sumeet Chowdhury  
Ms. Manashi Kr. Ray

... for the Petitioner.

Mr. Imran Ali  
Ms. Debjani Sahu

... for the State.

Ms. Amrin Khatoon

... for the Opposite Party No.2.

The petitioner in this case has prayed for quashing the proceeding being G.R. No.1201 of 2018 arising out of Howrah Women Police Station FIR No.13 of 2018 dated 06.3.2018 for alleged commission of offence punishable under Section 376/417 of the Indian Penal Code as well as the charge-sheet being Charge-Sheet No.20 of 2018 dated 21.5.2018 for commission of the alleged offence punishable under Section 376/417 of the Indian Penal Code.

During pendency of the case, the petitioner filed an application being CRAN 3 of 2019. The present case was initiated on the basis of a complaint preferred by opposite party no.2 alleging that petitioner has committed rape on the pretext of marriage and after completion of investigation charge-sheet was submitted on 21.5.2018.

The petitioner and the opposite party no.2 happened to be employee with the same employer and with the passage of time and during the course of employment, they felt in love with each other

and thus, became physically involved with each other. But sometimes thereafter the petitioner could not spend time with the opposite party no.2 and when the situation went beyond her tolerance, the opposite party no.2 became restless and decided to lodge complaint against the petitioner.

Now, by filing the said connected application the opposite party no.2 states that the complaint was filed by her against the petitioner out of misunderstanding and now she is very disturbed with the suffering that the petitioner/applicant no.1 had to undergo because of the said case and after realising the position of the petitioner and misunderstanding that led to the filing of the case, petitioner is now agreed and willing to withdraw the said criminal prosecution pending against the petitioner.

By an earlier order, this Court was pleased to direct the investigating officer to record statement of the victim and to submit recorded statement before this Court.

Today, the statement of the victim/opposite party no.2 recorded by police, is submitted by the State and after going through that recorded statement it appears that the victim/opposite party no.2 after realizing the truth, retrospect and contemplation, feels deeply remorse and saddened with whatever has happened to said petitioner as well as herself of this case which was filed out of sheer misunderstanding and momentary anger.

Accordingly, victim/opposite party no.2 wish to move ahead with her personal professional and private life and wish to withdraw this case out of her own volition and will.

The said statement recorded of the victim/opposite party no.2 submitted by the State be kept with the record.

In view of the aforesaid facts and circumstances of the case and also in view of the aforesaid statement made by the petitioner, it appears, as the opposite party no.2 has decided to withdraw the case and not to speak anything adverse against the petitioner herein, the chance of conviction of the petitioner in this case is bleak and as such, I find 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 as after the aforesaid amicable settlement between the parties in the present case, further continuation of the present proceeding will be mere abuse of process of the Court.

Accordingly, CRR 1958 of 2019 along with CRAN 3 of 2019 (Old CRAN 3133 of 2019) is allowed and all the proceeding being G.R. Case No.1201 of 2018 arising out of Howrah Women Police Station Cae No.13 of 2018 dated 06.3.2018 now pending before the learned Chief Judicial Magistrate, Howrah is hereby quashed.

However, there will be no order as to costs.

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

**(Ajoy Kumar Mukherjee, J.)**