

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ajoy Kumar Mukherjee

CRR 1695 of 2019

Tirtha Sankar Das & anr.

Vs.

State of West Bengal & anr.

For the petitioners: Mr. Somnath Ray Chowdhury

For the State: Mr. Saswata Gopal Mukherjee
Ms. Faria Hossain
Mr. Anand Keshari

Heard on: 07th June, 2022

Judgment on: 09th June, 2022

Ajoy Kumar Mukherjee, J.

1. The present revisional application has been preferred for quashing of the proceeding of GR case no. 2806 of 2018 pending before the learned Judicial Magistrate, First Class, 2nd Court at Howrah and the charge-sheet filed therein vide no. 67 of 2018 dated 28.7.2018 under Section 498A/342/323/506 and 34 of the Indian Penal Code arising out of Santragachi Police Station case no. 49 of 2018 dated 27.5.2018 under Section 498A/342/323/506 and 34 of the Indian Penal Code.

2. It is submitted on behalf of the petitioner that the marriage between petitioner no. 1 and the daughter of opposite party no. 2 was solemnised on

26th November, 2009 and the marriage was duly registered. Thereafter, they were living happy conjugal life at the house of the petitioners but subsequently, some disputes and differences cropped up. The daughter of opposite party no. 2 left her matrimonial home with her minor children and started to reside at her paternal house at Panskura, Medinipore. On May 27, 2018 opposite party no. 2 lodged a written complaint at Santragachi Police Station which was registered as Santragachi Police Station case no. 49 of 2018 under Section 498A/342/323/506 and 34 of the Indian Penal Code. After perfunctory investigation, a charge-sheet was submitted by the Investigating Officer being charge-sheet no. 67 of 2018 dated 18.7.2018 under Section 498A/342/323/506 and 34 of the Indian Penal Code and learned Chief Judicial Magistrate vide his order dated 11.2.2009 had taken cognizance. During pendency of the aforesaid criminal proceeding, the parties have settled their disputes amicably and presently they are residing together with their minor children at Santragachi. The daughter of opposite party no. 2/ defacto complainant has already affirmed an affidavit stating that they have settled the said dispute. In view of the aforesaid settlement and in view of the fact that the marital knot of the petitioner no. 1 and daughter of opposite party no. 2 has been saved from being broken, due to amicable settlement, arrived at by and between the parties, the continuance of the instant proceeding under Section 498A/342/323/506 and 34 of the Indian Penal Code would be nothing but abuse of the process of law and the same is required to be quashed.

3. Learned counsel for the petitioner in support of their contention relied upon the Apex court judgment in the case of **B.S. Joshi and ors., Vs. State of Haryana & anr., (2003) 4 SCC 675.**

4. It appears from record that this court vide its order dated 14th December, 2021 was pleased to direct the State to produce the case diary as well as to submit a report recording statement of Nalini Bera and Sangita Das nee Bera. In compliance of the aforesaid order, police had recorded the statement of Sangita Das nee Bera and Nalini Bera wherefrom it appears that said Sangita Das nee Bera is presently living with her husband, Tirtha Sankar Das at 16, J.N. Mitra Sarani, Santragachi and presently they do not have any problem nor they do have any allegation against each other.

5. State is represented and learned counsel for the State submits that state has nothing to say with the amicable settlement arrived at by and between the parties.

6. When the spouses want to forget their past misdeeds or differences and is living together again, it is futile on the part of the courts to still continue, simply because the offence is non-compoundable. If the parties have settled dispute voluntarily and are living peacefully, the court should not disturb the calm atmosphere created in their matrimonial life by not exercising the power under section 482 Cr. P.C.

7. In view of the fact that alleged victim does not want to prosecute accused persons and having considered the facts and circumstances of the case and also relying upon the ratio as laid down in the **B.S. Joshi & ors.**

(supra) judgement along with the observation made therein that there is every likelihood that non-exercise of inherent power to quash the proceeding to meet the ends of justice would prevent women from settling earlier, which is not the object of chapter XX-A of the Indian Penal Code and also considering the fact that there being not even remote chance of conviction, in view of above, I find that this is a fit case where invoking power under Section 482 of the Code of Criminal Procedure, the entire proceeding should be quashed.

8. In view of the above, the entire proceeding being GR case no. 2806 of 2018 under Section 498A/342/323/506 and 34 of the Indian Penal Code is hereby quashed.

Accordingly, CRR 1695 of 2019 is disposed of.

There will be no order as to costs .

Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(AJAY KUMAR MUKHERJEE)