

25.08.2022

Item No.6
Ct.No.34
dc.

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

C.R.R. 2227 of 2006

**Shri Shyamal Sarkar & Ors.
versus
The State of West Bengal & Anr.**

In Re: An Application under Section 401 read with Section 482 of the Code of Criminal Procedure.

Mr. Sayan Chattopadhyay,
Mr. R. Ali ... For the Petitioners.

Mr. Binay Panda,
Ms. Puspita Saha ... For the State.

This revisional application was preferred against the judgement and order dated 20.06.2006 passed by learned Additional Sessions Judge, Fast Track 2nd Court, Alipurduar in Criminal Appeal No. 4 of 2003 wherein the learned appellate court was pleased to affirm the judgement and order of conviction and sentence dated 25.06.2003 passed by learned Sub-Divisional Judicial Magistrate, Alipurduar in C.R. Case No. 413 of 1999.

Records reflect that the learned Magistrate was pleased to convict the petitioners under Section 498A of the Indian Penal Code and sentenced them to suffer simple imprisonment for two months each and also to pay fine of Rs.500/- each, in default, to suffer imprisonment for 15 days each.

Earlier the learned advocate for the petitioners submitted that there has been an end to the matrimonial discord and the petitioner no.1, Shyamal Sarkar, is staying

with the complainant/opposite party no.2, Smt. Mukti Sarkar.

In view of such contentions advanced by the learned advocate for the petitioners, State was directed to submit a report which would include statement of the complainant/opposite party no.2 being recorded by the police authorities as well as before the learned Judicial Magistrate of the jurisdiction.

Today, a report has been submitted along with a statement of the complainant, Mukti Das Sarkar. Such statement was recorded by the learned Judicial Magistrate, 2nd Court, Alipurduar. The contents of the same reflect that the complainant, Mukti Das Sarkar is staying with her husband Shyamal Sarkar, petitioner no.1, at his home and she does not intend to proceed with the litigation or is not interested with the conviction of the accused/petitioners.

Having regard to the fact that the case arose out of matrimonial discord and the same has been subsequently amicably settled between the parties and that the accused/petitioner no.1 and the complainant/opposite party no.2 are leading their conjugal life which grossly changes the circumstances, interference is called for by this Court in respect of the order of conviction and sentence so passed by the learned Magistrate and affirmed by the learned appellate court.

In view of such changed circumstances, the order of conviction and sentence passed by the learned Sub-Divisional Judicial Magistrate, Alipurduar in C.R. Case No.

413 of 1999 as also the same being affirmed by the learned Additional Sessions Judge, Fast Track 2nd Court, Alipurduar in Criminal Appeal No. 4 of 2003 be set aside.

Thus, the petitioners are acquitted of the charges in view of the changed circumstances.

If the petitioners are on bail, they are discharged from their bail bonds.

Consequently, the revisional application being CRR 2227 of 2006 is allowed.

All pending connected applications, if any, are therefore disposed of.

Report so submitted by the learned advocate appearing for the State be kept on record.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Tirthankar Ghosh, J.)