

15.7.2022
Court No.35
Sl. No. 2
SD

CRR 3237 of 2018
With
CRAN 1 of 2022

In the matter of: Kislaya Upadhyaya & Ors.

....Petitioners.

Mr. Avirup Chatterjee

... for the Petitioners.

Mr. Prasun Kumar Datta

Md. Kutubuddin

Mr. Santanu Deb Roy

... for the State.

Mr. Soumo Roy

... for the Opposite Party No.2.

The present revisional application has been directed to quash the proceeding being G.R. Case No.1647 of 2017 pending before the learned Additional Chief Judicial Magistrate, Barrackpore arising out of Barrackpore Police Station Case No.27 of 2017 under Sections 498A/307/323/506/34 of the Indian Penal Code. The investigation has already been ended in charge-sheet.

The impugned proceeding has been challenged on the ground that the Magistrate concerned has mechanically passed the impugned order dated May 25, 2018 and took cognizance of the offence without evaluating the materials available in the case diary.

The entire allegation and the materials collected during investigation fails to substantiate the allegation made in the complaint. The impugned proceeding has been degenerated into an instrument of harassment and as such, for the ends of interest of justice, the same is liable to be quashed.

Mr. Chatterjee appearing on behalf of the petitioners submits that so far his instruction goes, the dispute has been amicably settled between the parties and he has been further instructed that

matrimonial relationship has already been dissolved by way of decree of divorce.

Mr. Dutta on behalf of state submits that, in compliance with the earlier direction, the investigating officer has collected instruction from the defacto complainant Ricky Upadhyay through whatsapp message and it appears from the said whatsapp message along with a report filed this day by Officer-in-Charge, Women Police Station, Barrackpore Police Commissionerate, that the victim/defacto complainant stated that she has settled the dispute with Kislaya Upadhyaya amicably and she has no objection if the said FIR is quashed. She further stated that she had read the paper which was given to her and she would like to settle the issue.

Having considered the facts and circumstances and that in view of the amicable settlement arrived at by and between the parties, the fate of the trial and the fact that defacto complainant will not depose against the accused persons in view of settlement and as such, there is not even remote chance of conviction of the accused persons, 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.

Accordingly, CRR 3231 of 2018 along with CRAN 1 of 2022 is allowed and all the proceeding in G.R. Case No.1647 of 2017 pending before the learned Additional Chief Judicial Magistrate, Barrackpore arising out of Barrackpore Police Station Case No.27 of 2017 under Sections 498A/307/323/506/34 of the Indian Penal Code is quashed.

The report submitted by the Officer-in-Charge, Women Police Station, Barrackpore Police Commissionerate in Court today be kept with the record.

The office of the Legal Remembrancer is directed to regularize the appointment of Mr. Prasun Kumar Datta along with Md. Kutubuddin and Mr. Santanu Deb Roy in this matter.

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.)