

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

Present:

The Hon'ble Justice Ajoy Kumar Mukherjee

CRR 3473 of 2019

With

CRAN 2 of 2022

Shilak Sarkar

Vs.

The State of West Bengal & anr.

For the petitioners:

Mr. Arindam Sen
Mr. Shibasis Chatterjee

For the State

Mr. Saswata Gopal Mukherjee
Ms. Debjani Sahu

For the opposite Party

Mr. Rwitendra Banerjee
Mr. Devdutta Pathak

Heard on:

07th June, 2022

Judgment on:

09th June, 2022

Ajoy Kumar Mukherjee, J.

1. This is an application for quashing of Bidhannagar Police Station case no. 77 of 2018 dated 6.9.2018 corresponding to GR case no. 771 of 2018 under Section 498A of the Indian Penal Code.

2. Learned Counsel for the petitioner submits that on 9.12.2019, the petitioner got married to opposite party no. 2 as per Hindu rites and customs and it was duly registered. On August 2, 2018, the defacto-complainant all on

a sudden entered into a severe quarrel with the petitioner and also caused damage to several house articles and thereafter she left the matrimonial home and forcefully took away the minor child of the petitioner. Mother of the petitioner lodged a complaint which was registered as GDE no. 1356 dated 28.8.2018. the opposite party no. 2 refused to come back to matrimonial home but on 6.9.2018 she lodged a frivolous complaint before the Bidhannagar Police Station against the petitioner and on the basis of such complaint, Bidhannagar Police Station case no. 77 of 2018 dated 6.9.2018 corresponding to GR case no. 671 of 2018 under Section 498A of the Indian Penal Code was initiated against the petitioner. The petitioner initially prayed for quashing of the entire proceeding as according to the petitioner the said proceeding is harassive and also because proceeding is being dragged unnecessarily and that the ingredients under Section 498A of the Indian Penal Code are not attracted.

3. During pendency of the application both the parties by filing an affidavit prayed for passing appropriate order being CRAN 2 of 2022 wherein they have stated that during pendency of the proceeding a compromise degree has been passed in an Act VIII proceeding between the parties and it has been mutually agreed that the custody of the child shall remain with the applicant no. 2. The disputes and differences between the parties has been resolved amicably and as such there is no justifiable reason in continuing the present proceeding in the interest of justice. It is further submitted on oath by both applicant nos. 1 and 2 that there is no reasonable likelihood of the applicant no. 2 impleaded as

accused in connection with the present case, to be convicted under Section 498-A of the Indian Penal Code as complained of, since the applicant no. 1 will not depose against the applicant no.2 on the score of mutual settlement. The defacto-complainant also not interested to proceed with the said case and for which they have filed this joint application for compromise on oath.

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

5. When the parties have compromised the issue and the complainant categorically submitted that she does not want to prosecute the revisionist continuation of criminal proceeding would be an abuse of the process of the court.

6. Having considered the facts and circumstances of the case and also relying upon the ratio as laid down in the ***B.S. Joshi & ors., Vs. State of Haryana & anr (2003) 4 SCC 675*** and also considering the fact that there being not even remote chance of conviction and also considering the fate of trial, in view of defacto complainant's statement on oath that he will not depose against present petitioner, 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.

7. In view of the above, the entire proceeding being GR case no. 771 of 2018 under Section 498A of the Indian Penal Code is hereby quashed.

Accordingly, CRR 3473 of 2019 along with CRAN 2 of 2022 are 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)