

D/L 11
March 29,
2022
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C.R.R. No.3633 of 2019
With
CRAN 2 of 2021
With
CRAN 3 of 2022

In Re: An application under Section 482 read with Section 401 of the
Code of Criminal Procedure, 1973;

Shiv Nath Kundu (since deceased)
substituted by Sanchita Kundu
Versus
The State of West Bengal & Ors.

Mr. Arindam Jana,
Mr. Soumajit Chatterjee.
...for the petitioner.

Mr. Umesh Kr. Singh.
...for the opposite party nos.2 to 5.

Mr. Imran Ali,
Ms. Debjani Sahu.
...for the State.

The application being CRAN 2 of 2021 is taken up for
consideration.

It has been submitted in paragraph 4 of the said
application that the petitioner before this Court, who was the
original complainant, expired on 18th July, 2021 leaving behind his
legal heirs, namely Sanchita Kundu (wife), Sunanda Kundu
(daughter) and Sandipan Kundu (minor son).

In view of the changed circumstances and the application
being enclosed with proper documents and being recognized by the
opposite party nos.2 to 5, I am of the opinion that the present
applicant Sanchita Kundu be allowed to substitute the original

complainant late Shiv Nath Kundu.

Accordingly, CRAN 2 of 2021 is allowed.

So far as the revisional application is concerned, there was an issue regarding the maintainability of the said revisional application in view of the fact that the complainant has challenged an order of acquittal. However, during the pendency of this revisional application learned advocate appearing for the accused/opposite party nos.2 to 5, who were acquitted from the charges before the appeal court proposed for a compromise. As the issue has been reduced from contesting to compromise, I am of the opinion that this Court while exercising its revisional jurisdiction under Section 482 of the Code of Criminal Procedure is empowered to adjudicate on the issue of compromise.

A joint compromise application being CRAN 3 of 2022 has been preferred wherein the subject matter has been spelt out regarding the complaint case being AC Case No.3169 of 2011 under Section 138 read with Section 141 of the Negotiable Instruments Act which was initiated at the instance of late Shiv Nath Kundu.

On the completion of trial, the learned trial court was pleased to hold the accused persons guilty and sentenced the accused persons to suffer simple imprisonment for one year and pay compensation to the tune of Rs.6,00,000/-.

Being aggrieved, the accused persons (being opposite party nos.2 to 5) preferred an appeal being Criminal Appeal No.235 of 2018 which was finally heard by the learned Additional District and Sessions Judge, Fast Track, Second Court, Alipore for disposal.

The learned appellate court by a judgment and order dated 14.08.2019 was pleased to reverse the judgment dated 31.08.2018 passed by the learned Judicial Magistrate, 4th Court, Alipore in AC Case No.3169 of 2011, thereby acquitting the opposite party nos.2 to 5.

During the pendency of this revisional application before this Court, a joint compromise petition was preferred and subsequently supplementary affidavit has been filed on behalf of the applicant nos.1 to 3 and applicant nos.4 to 6 separately wherein the parties have expressed their intention for compromising and compounding the offences. It has also been contended that a demand draft of Rs.3,00,000/- which was the cheque amount has been handed over to Mr. Arindam Jana, learned advocate appearing for the petitioner, which Mr. Jana has informed, has been handed over to the substituted applicant being Sanchita Kundu.

In view of the compromise arrived at by and between the parties and the fact that the opposite party nos.2 to 5 were acquitted in the appeal court, I am of the opinion that no interference is called for.

Mr. Jana, learned advocate appearing for the petitioner (substituted by the wife), on instructions, submits that the applicant/petitioner at present has waived her right so far as the subject matter of the cheque is concerned before any other forum.

With the aforesaid directions, CRR 3633 of 2019 is disposed of.

Accordingly, CRAN 3 of 2022 is allowed.

Pending applications, if any, are consequently disposed of.

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

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

(Tirthankar Ghosh, J.)