

24.11.2022
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SB
Ct. No.236

CRR 4314 of 2009

In the matter of : Arup Sarkar & Ors.

Mr. Sourav Chatterjee
Mr. Priyom Biswas ... for the petitioners

Pursuant to the direction given by a co-ordinate Bench on 18.8.2022, Mr. Chatterjee, learned counsel representing the petitioners served the copy of the revisional application upon the opposite parties. The affidavit of service is taken on record.

This criminal revision is filed by Sri Arup Sarkar and his relatives seeking an order of quashment of a proceeding registered as Chinsurah P.S. Case No. 209 of 2009 dated 2.9.2009 pursuant to the direction given by the learned Chief Judicial Magistrate, Chinsurah, Hooghly under Section 156(3) of Cr. P.C. at the behest of Smt. Chandrima Sarkar. A case under Section 498A /406 was registered and police took up investigation. With efflux of time, however, Sri Arup Sarkar and Smt. Chandrima Sarkar arrived at a settlement and decided to dissolve their marital knot by way of decree of divorce on mutual consent. Accordingly, an application under Section 13(B) of the Hindu Marriage Act was filed before the learned District Judge, Hooghly and on 16.2.2016 the decree was passed. It is adverted by Mr. Chatterjee, learned counsel representing the petitioners that once the matter was settled between the parties and such settlement was given effect to in the form of divorce by mutual consent and when no further dispute survived between the parties and no liberty was reserved by the wife to continue with further proceeding against her

husband the criminal proceeding should not remain alive and should be quashed.

To buttress his argument Mr. Chatterjee relied upon a decision of Hon'ble Apex Court pronounce in the case of Shlok Bhardwaj vs. Runika Bharadwaj and Others reported in (2015) 2 SCC 721 wherein Hon'ble Apex Court Held :-

“Once the matter was settled between the parties and the said settlement was given effect to in the form of divorce by mutual consent, no further dispute survived between the parties, though it was not so expressly recorded in the order of this Court. No liberty was reserved by the wife to continue further proceedings against the husband. Thus, the wife was, after settling the matter, estopped from continuing the proceedings.”

In view of the aforesaid judgement, I am inclined to quash the proceeding by exercising inherent jurisdiction under Section 482 of Cr.P.C.

The copy of the order be sent down to the learned Trial Court for information and necessary action.

The parties shall act upon the server copy 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 completion of requisite formalities.

(Siddhartha Roy Chowdhury, J.)