

15.09.2022

Piya (PA)

Sl no.4

Ct no. 30

CRR 1739 of 2020

**Barin Das Chaudhuri
@ Barin Das Chowdhury
Vs.
The State of West Bengal & Anr.**

Mr. Dipanjan Dutt

Mr. Surojit Saha

...for the Petitioner.

Mr. Modhusudan Sur

Md. Anwar Hossain

.....for the State.

Mr. Anirban Dutta

Mr. Debabatra Das

....for the Opposite Party.

The revisional application under Section 482 of the Code of Criminal Procedure 1973 has been preferred by the petitioner praying for quashing of proceedings of G.R. Case no. 203 of 2017 under Sections 419/420/406 of the Indian Penal Code, arising out of Kharagpur Town Police Station Case No. 27 of 2017 dated 16.01.2017 pending before the Learned Judicial Magistrate, 5th Court, Paschim Medinipur.

Learned Counsel appearing for the petitioner submits that the opposite party no. 2 filed an application under Section 156 (3) of the Code of Criminal Procedure before the Learned Chief Judicial Magistrate, Paschim Medinipur, alleging commission of offence as mentioned above and investigation

was directed by the Learned Magistrate by treating the petition as a First Information Report.

It is case of the opposite party no. 2 that on seeing an advertisement given by the petitioner, the OP no. 2 contacted the petitioner, and the petitioner asked him to donate Rs. 5 lakhs for development fund for construction of new building of Aurobindo Patha Bhaban and in lieu of that he would be appointed as a permanent staff of Indian Railways. On such assurance the OP no. 2 paid the sum of Rs. 5 lakhs to the petitioner. But the petitioner denied the said payment. On completion of investigation police submitted chargesheet in the said case and cognizance was taken by the Learned Chief Judicial Magistrate. The petitioner surrendered before the Court and was granted bail. The petitioner has denied the entire case and has stated that as the said complaint is not based on proper evidence and as the materials don't disclose the ingredients of the alleged offences the impugned proceedings is liable to be quashed. The petitioner's case is that his daughter is married to an Indian Railway Traffic Service Officer at South Eastern Railway, posted as Senior Divisional Operation Manager, Kharagpur from 2008 to 2011. His daughter was subjected to cruelty by her husband compelling her to leave her matrimonial home in the year 2015. A false case was also filed by petitioner's daughter's husband being West Port Police Station Case No. 109 of 2016 which ended in

Final Report as a “mistake of fact”. It is submitted that this case is also one of those cases filed at the instance of his daughter’s husband for harassing the petitioner and his family. None of the ingredients as required to constitute the offence as alleged has been proved and hence the case.

CRAN 2 of 2022 has been filed jointly by the parties in this case stating therein that a settlement has been arrived at between the parties and the grounds of settlement and compromise has been stated in the said joint application. The joint applicants have now prayed for quashing the said proceedings in this case in view of the said joint compromise between the parties on affidavit. Learned lawyer for the State has filed a report submitted by the Inspector in-charge of Kharagpur Town P.S., District Paschim Medinipur stating therein that a written declaration has been submitted by the OP no. 2 (complainant) to the I.C. Kharagpur Town P.S. stating therein that in view of settlement between the complainant and accused petitioner herein and the joint compromise application filed before this Court, he does not wish to proceed in the said matter any further and Kharagpur P.S. case no. 27 of 2007 be accordingly dropped.

Considered the said stand and materials on record and the joint compromise arrived at between the parties and submitted by way of a joint application CRAN 2 of 2022 on

affidavit before this Court and also considered the submissions of the learned lawyers for both sides.

The following rulings are relied upon by this Court considering the facts and circumstances of the case herein:-

(1) (2012) 10 Supreme Court Cases, 303.

(2) (2018) 3 Supreme Court Cases, 290.

The Three Judge Bench of the Court in **(2012) 10 Supreme Court Cases, 303, Gian Singh vs State of Punjab** and another has cleared the position in respect of the power of the High Court in quashing a criminal proceedings in exercise of its inherent jurisdiction in para 61 of the judgment, which is reproduced here in:-

“The position that emerges from the above discussion can be summarised thus : the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz. : (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's

family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

In Anita Maria Dias & Anr. vs The State of Maharashtra & Anr. (2018) 3 SCC 290.

The Court held:-

- (a) Offences which are predominant of civil character, commercial transaction should be quashed when parties have resolved their dispute.*
- (b) Timing of settlement would be crucial for exercise of power or declining to exercise power (stage of proceedings).*

The joint application filed by the parties clearly shows that an amicable settlement and compromise has been arrived at between the parties and the said fact has been supported by the report of I.C. Kharagpur P.S. which clearly shows that the complainant in the criminal case does not wish to proceed with Kharagpur Town P.S. Case no. 27 of 2017 against the petitioner.

From the materials on record is clear that the facts and circumstances in the present case was a financial, dispute and the dispute between the parties was private in nature and the parties have now resolved their entire dispute by way of a compromise/settlement on affidavit and as such the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice could be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the complainant. (As in the words of the Supreme Court in **Gian Singh Vs. State of Punjab and another**).

As such this court is of the view that it would be unfair and contrary to the interest of justice to continue with the criminal proceedings which would tantamount to abuse of process of law in view of the settlement arrived at between the parties in respect of their dispute and to secure the ends of justice it would be prudent to quash the proceedings in the case as prayed for. The present status of the case before the Trial Court is that chargesheet has been filed and cognizance has been taken, and it is presumed that trial might have not commenced as yet.

Accordingly, the revisional application being CRR 1739 of 2020 is allowed.

Proceedings being G.R. Case No. 203 of 2017 pending before the Ld. Judicial Magistrate, 5th Court, Paschim Medinipur, under Sections 419/420/406 of the Indian Penal Code is hereby quashed.

There will be no order as to costs.

Copy of this order be sent to the learned Trial Court forthwith for necessary compliance.

Urgent certified website copy of this order, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)