

21.04.2023
SL No.4
Court No.8
(gc)

**FA 176 of 2022
CAN 3 of 2023**

**Binita Barik
Vs.
Bappaditya Barik**

Mr. Prosenjit Mukherjee,
....for the Appellant.
Mr. Aniruddha Bhattacharya,
...for the Respondent.

The parties are personally present. The parties have filed a joint application for recording compromise being CAN 3 of 2023.

The appeal is arising out of a decree of divorce passed in an application for restitution of conjugal rights. The learned Trial Judge instead of converting the said application into an application for divorce granted a decree of divorce in favour of the respondent. The respondent/wife is the appellant herein. During the pendency of the appeal, the appellant/wife in all fairness has agreed to resume the conjugal tie. The parties have filed this petition recording that they want to live their life as husband and wife. The respondent/husband does not want the decree of divorce to be enforced. In any event, the learned Trial Judge could not have without converting the application for restitution into an application for divorce decided the said matter. In whatever manner, we may look at the issue, the fact remains that the parties have jointly agreed to live their life as husband and wife

with the minor. However, during the pendency of the proceeding, two criminal proceedings were initiated by the appellant/wife. In terms of settlement, the appellant/wife has agreed that she would not proceed with the application under Section 125 Cr.P.C. as also the criminal case being G.R. Case No.1755/2016. The settlement appears to be lawful. The parties have also acknowledged in Court their willingness to resume the matrimonial ties.

Under such circumstances, the appeal being FA 176 of 2022 is disposed of on the basis of the terms of settlement.

The decree impugned is set aside.

Accordingly, the application being CAN 3 of 2023 stands disposed of.

The department is directed to draw up the decree in terms of the settlement duly signed by the parties and their respective Advocates.

The respondent shall be at liberty for quashing on the basis of the terms of settlement.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)