

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

The Hon'ble **JUSTICE BIBEK CHAUDHURI**

CRR 997 of 2022

With

CRAN 1 of 2022

Raju Roy

Vs.

The State of West Bengal and Anr.

For the petitioner: Mrs. Biksha Ghosh, Adv.,
 Mrs. Afreen Parveen, Adv.

For the State: Mr. Sudip Ghosh, Adv.,
 Mr. Bitasok , Adv.

For the O.P. No.2: Ms. Minal Palana, Adv.,

Heard on: 09 January, 2023.

Judgment on: 09 January, 2023.

BIBEK CHAUDHURI, J. : –

1. The petitioner is the accused in GR Case No.6478 of 2020 arising out of Dum Dum Police Station Case No.751 dated 25th October, 2020 under Section 376 and 417 of the IPC pending before the learned Additional Chief Judicial Magistrate at Barrackpore.

2. It is pertinent to mention at the outset that in the instant revision both the petitioner and the opposite party No.2/defacto complainant have filed joint petition for compromise on the ground that the dispute between them has been amicably settled. Therefore, the criminal proceeding may be quashed.

3. The opposite party No.2 lodged a written complaint before the Officer-in-Charge Dum Dum police station on 28th October, 2020 stating, inter alia, that she is a married lady having two minor children. About one year before the date of lodging FIR, she had an illicit relation with the petitioner. The petitioner promised her to marry and induced her to leave her husband and children and to go to some other place with him. Accordingly, she left her husband and children and went away with the petitioner. Both the petitioner and the opposite party No.2 had physical relationship. The petitioner promised her to marry but subsequently refused.

4. In the present case the issue which is to be adjudicated by this Court is whether, assuming all the allegations in the charge-sheet are correct as they stand, an offence punishable under Section 376 was made out. The opposite party No.2/defacto complainant is a married lady having two children. She developed an intimacy with the petitioner. They both are adults. The defacto complainant left the association of her husband and children and went away with Raju Roy. They stay together in the house of Raju Roy. While they were staying together, they cohabited. Under such circumstances, sexual relationship between the parties was consensual and there is no element found from the written complaint that the petitioner had physical relationship with the opposite party No.2 on false promise of marriage. Under such circumstances, the instant application filed by both the petitioner and the opposite party No.2 for affecting settlement is allowed.

5. In view of the aforesaid GR Case No.6478 of 2020 pending against the petitioner in the court of the learned Additional Chief Judicial Magistrate at Barrackpore be quashed.

(Bibek Chaudhuri, J.)