

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 957 of 2020

With

CRAN 1 of 2023 (not in the file)

Dipu Naskar

Vs.

The State of West Bengal & Anr.

For the Petitioner : Mr. Tauhid Khan,
Mr. Md. Manirul Islam Molla.

For the State : Mr. Saswata Gopal Mukherjee, ld. PP
Ms. Faria Hossain,
Mr. Anand Keshari.

For the Opposite Party No. 2 : Mr. Iftekar Munshi.

Heard on : 15.06.2023

Judgment on : 06.07.2023

Shampa Dutt (Paul), J.:

1. The present revision has been preferred praying for quashing of the impugned proceeding in connection with the impugned F.I.R. No. 54/2015 dated 19.01.2015 and Charge Sheet No. 814/2015 dated 30.11.2015 arising out of Sankrail Police Station, Howrah under Sections

376/417 of the Indian Penal Code, corresponding to G.R. Case No. 424/2015 pending before the Learned Chief Judicial Magistrate, Howrah.

2. The petitioner's case is that on 19.01.2015 at 18.05 hrs. complainant Aparna Mondal, daughter of Ananta Mondal of Manickpur Manshatala, P.O. – Deltamill, P.S.-Sankrail, District-Howrah, PIN-711 309, came to Manickpur I.C. under Sankrail P.S. and submitted a written complaint to the effect that since last 3/4 months she is in a love affair with the petitioner. The accused person assured the complainant that as early as possible he would marry her. The last one month the petitioner Dipu committed intercourse upon the victim and had sexual relation several times, promising to marry her. The said petitioner tried to break the relationship with the complainant. The petitioner then made no contact with the complainant and then refused to marry her.
3. **Mr. Tauhid Khan, learned counsel for the petitioner** has submitted that there was a love affair between the petitioner and the defacto complainant and due to some misunderstanding the present complaint was filed.
4. That on intervention of elders, well-wishers and parents of both the side the matter has been amicably settled and **in 2015, the marriage ceremony of the petitioner and the defacto complainant was solemnized under the Hindu Marriage rites and customs in presence of witnesses.**

5. After their marriage, the petitioner and the complainant are living together as husband and wife. **On 15.05.2016 a baby girl was born out of the wedlock.**
6. It is submitted that the dispute has already been settled between the parties. Therefore, the impugned proceeding be dropped and the impugned F.I.R. and Charge Sheet be quashed in the interest of justice.
7. It is true that in the statement under Section 164 of the Cr.P.C., the complainant repeated her allegation. Complainant has also recorded her age in the statement as **20 years.**
8. **Mr. Saswata Gopal Mukherjee, learned Public Prosecutor** has placed the case diary along with a memo of evidence.
9. **From the materials on record including the case dairy, the birth certificate of complainant shows her date of birth as 19.05.1996.**
10. The complaint in this case was filed on 19.01.2015, stating that the relationship started since 3-4 months (when the complainant was **more than 18 years old**).
11. **Mr. Iftekar Munshi, learned counsel for the opposite party no. 2/defacto complainant has supported the contention of Mr. Khan, learned counsel for the petitioner.**
12. **Both the parties have categorically submitted that the parties are now married to each other and also have a child.**
13. Considering the evidence that the complainant was admittedly **above 18 years of age at the time of the alleged incident** and that the relationship has now culminated into marriage with the parties having a child, the ends of justice will be met if the matter is disposed of as

amicably settled, as the allegations made against the petitioner are no more in existence.

14. Thus relying upon the judgment of the Supreme Court in ***Jatin Agarwal vs The State of Telangana & Anr., Criminal Appeal No. 456 of 2022, on 21 March, 2022***, and considering the materials on record, and the present status of the parties, **it is evident that a trial in this case, would end in acquittal of the petitioner.** Thus continuation of the said criminal proceedings being FIR No. 54/2015 dated 19.01.2015 and charge sheet no. 814/2015 dated 30.11.2015 corresponding to G.R. Case No. 424/2015 would clearly be an abuse of the process of law and as such for the ends of justice, the proceeding is liable to be quashed.
15. **The revisional application being CRR 957 of 2020 is accordingly allowed.**
16. The impugned proceeding in connection with F.I.R. No. 54/2015 dated 19.01.2015 and Charge Sheet No. 814/2015 dated 30.11.2015 arising out of Sankrail Police Station, Howrah under Sections 376/417 of the Indian Penal Code, corresponding to G.R. Case No. 424/2015 pending before the Learned Chief Judicial Magistrate, Howrah, is quashed.
17. No order as to costs.
18. All connected applications, if any, stands disposed of.
19. Interim order, if any, stands vacated.
20. Copy of this judgment be sent to the learned Trial Court forthwith for necessary compliance.

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

(Shampa Dutt (Paul), J.)