

15.05.2023
Court- 42
Item-06

CRR/1143/2023

**With
CRAN 1 of 2023**

**Sk. Mahammad Samim & Ors.
-Vs-
The State of West Bengal & Anr.**

For the petitioner: Ms. Sonali Das, Adv.
For the O.P No.2 Mr. Samrat Choudhury, Adv.
For the State: Mr. Arijit Ganguly, Adv.,
Mr. Manisha Shamra, Adv.

The issue involved in the instant revision is as to whether a criminal case under the charge of Section 341/323/325/354/509/376/511/506/34 of the IPC can be quashed on the basis of a joint petition for compromise.

Both the petitioners and the opposite party No.2/defacto complainant have filed a joint petition for passing appropriate order stating, inter alia, that the dispute between the parties have been amicably settled.

It is submitted by the learned Advocate for the petitioners that this Court in CRR No.1155 of 2021 passed an order on 17th August, 2022 relying on the guidelines laid down in **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors. vs. State of Gujarat & Anr.** reported in **(2017) 9 SCC 641** allowed an application under Section 482 of the Code of Criminal Procedure on the basis of a joint compromise petition filed by the parties in a case under Section 376/511 of the IPC on the ground that the continuation of the criminal proceeding pending in the trial court will fetch no fruit ultimately.

The learned Advocate for the petitioner also refers to another decision of the Hon'ble Supreme Court passed in Criminal Appeal No.394-395 of 2021 on 12th April, 2021 (Ananda D.V vs. State & Anr.) where the Hon'ble Supreme

Court was pleased to quash an FIR under Section 376 of the IPC on the ground that both the defacto complainant/victim and the accused were living happily.

I have considered the aforesaid judgment and also the decision of the **Parbatbhai Aahir** case. In paragraph 15 of the **Parbatbhai Aahir** case, the Hon'ble Supreme Court was pleased to lay down broad principles which emerge from the precedents on the subject as to whether in view of compromise arrived at by the parties in a criminal case, a criminal proceeding can be quashed under Section 482 of the Cr.P.C. In paragraph 15 (ix) it is held by the Hon'ble Supreme Court:-

“The High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice.”

In the instant case in view of the compromise possibility of conviction of the petitioners is remote and obscure.

I have also perused the written complaint submitted by the opposite party No.2 specific allegation which has been leveled against the accused Seikh Md. Samim does not amount to an attempt to commit rape by any stage of imagination.

In view of the above discussion, there is no reason to continue with the trial of G.R Case No.638 of 2022.

In view of the above discussion further proceedings in connection with G.R Case No.638 of 2022 and C.S No.379 of 2022 dated 28th October, 2022 under Sections 341/323/325/354/509/376/511/506/34 of the IPC be quashed. The accused persons be discharged by the learned ACJM, Ghatal, Paschim Medinipur.

(Bibek Chaudhuri, J.)