

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 1091 of 2021

(Assigned)

with

IA No. : CRAN 1 of 2022

Samir Kumar Dutta

Vs

The State of West Bengal & Anr.

For the Petitioner : Mr. Priyankar Basu.

For the State : Md. A. Hossain,
Ms. S. Das.

For Opposite Party No. 2 : Mr. Gazi Faruque Hque.

Heard on : 23.12.2022

Judgment on : 13.01.2023

Shampa Dutt (Paul), J.:

The Revisional application is praying for quashing proceedings/charge sheet of Bidhannagar Police Station Case No. 121 dated 18th August 2020 under Sections 341, 354 and 509 of the Indian Penal Code corresponding to GR Case No. 525 of 2020 pending in the Court of the Learned Additional Chief Judicial Magistrate, Bidhannagar, filed by the Opposite Party No. 2 on false and baseless allegations;

The dispute is relating to the tenanted premises wherein the petitioner's wife and son are the joint tenants under the opposite party No. 2 and others. On being threatened by them, the petitioner's wife and son had lodged a complaint with Bidhannagar Police Station on 20th June, 2020.

On or about 30th June 2020 wife and son of your petitioner filed a suit for declaration and injunction before the Learned Civil Judge (Junior Division) at Bidhannagar being Title Suit No. 87 of 2020 and also moved an application for injunction. The Learned Civil Judge (Junior division) at Bidhannagar was inter alia pleased to pass an order of injunction thereby restraining the defacto complainant and Brojo Durlab Dhar, Minati Dhar, Ujjal Dhar and Aditi Dhar from disturbing the peaceful possession of the family of your petitioner. The said order of injunction is till subsisting.

The defacto complainant along with the other owners filed another suit against your petitioner and his son before the court of the Learned Civil Judge Senior Division at Barasat being Title Suit No. 426 of 2020 and the said case is also pending.

The petitioner, a senior citizen aged about 72 years obtained Anticipatory Bail in the Criminal Case, but the police has filed charge sheet on 30.11.2020.

Hence the present revision praying for quashing of the said proceedings.

CRAN 1/2022 has been filed by the petitioner and the opposite party No. 2 jointly stating there in that the dispute being civil in nature (tenancy dispute) the matter has been amicably settled between them by way of compromise and the opposite Party No. 2 has no objection if the proceedings in Bidhannagar Police Station Case No. 121 of 2020 under Sections 341/354/509 of the Indian Penal Code is quashed as they have no grievance against each other.

The Three Judge Bench of the Supreme 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 (amicably settled/compromised) 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).

From the materials on record it is clear that the facts and circumstances in the present case relate to a tenancy dispute and civil in nature and the dispute between the parties was private in nature and the parties have resolved their entire dispute by way of amicable settlement 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***).

Accordingly, CRR 1091/2021 stands Allowed. CRR 1091 of 2021 along with CRAN 1/2022 are disposed of.

The proceedings of Bidhannagar Police Station Case No. 121 dated 18th August 2020 under Sections 341, 354 and 509 of the Indian Penal Code corresponding to GR Case No. 525 of 2020 pending in the Court of the Learned Additional Chief Judicial Magistrate, Bidhannagar, is hereby quashed.

No order as to costs.

All connected Application stand disposed of.

Interim order if any stands vacated.

Let a copy of this judgment be sent to the learned Trial Court forthwith for necessary compliance.

Urgent Photostat Certified copy of this Judgment, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Shampa Dutt (Paul), J.)