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C.R.R.1209 of 2021

In Re: An application under Section 482 read with Section 401 of the
Code of Criminal Procedure, 1973;

Sakti Roy Chowdhury
Versus
The State of West Bengal and another

Mr. Dilip Kumar Samanta,
Mr. Biswapriyo Samanta
Ms. Tithi Paul.
...for the petitioner.

Mr. Saibal Bapuli,
Mr. Arijit Ganguly,
Mr. Bibaswan Bhattacharya.
...for the State.

Report submitted by Mr. Saibal Bapuli, learned
Additional Public Prosecutor be kept with the record. Report reflects
that the Officer-in-Charge, Hastings Police Station engaged an
Officer for recording the statement of Smt. Aditi Mitra. A
communication was also sent by the said Aditi Mitra to the
Investigating Officer of the case. Statement as recorded reflects as
follows:

“Subsequently in the year 2012-2013, I, have
received the entire amount of Rs 10 Lac, from them by
way of Demand Draft. However for handing over such
payment the alleged accused persons and office bearers of
M/S Observance Co-operative Housing society had
resorted to coercive measure in taking my and my

husband's signature on a declaration that we have no further claim. At that point of time they promised that they will approach us for mutual settlement once we sign such documents but since then they have not contacted us.

Under such circumstances as stated above I, do hereby submit that I wish to continue with the case, subject to approval of Hon'ble Court. I have lost whole of my savings out of professional earnings in their hands and suffered mental trauma for years so much so that I had to wind up my business."

Mr. Dilip Kumar Samanta, learned advocate appearing for the petitioner submits that the offence complained of are compoundable in nature and as the payment has already been made, the proceedings should be dropped.

So far as the issue relating to payment is concerned, report itself contains that there is no dispute regarding the same but the mode and manner has been disrupted and reluctance has been expressed by the de facto complainant in withdrawing the case. The issue of compounding is never a one way traffic and it requires consent of both the parties. Ordinarily, in a criminal case repayment do not exonerate a person/accused from the charges levelled against him or her. The de facto complainant is reluctant to withdraw the case as is reflected from the statement enclosed to the report.

Learned advocate for the petitioner relies upon a decision

in **State of Haryana Vs. Bhajanlal** reported in **1992 SCC (Cri) 426**.

By referring to Clause VII of paragraph 102 learned advocate submits that the criminal case is attended with mala fide for wrecking vengeance on the petitioner because of private and personal grudge.

I have considered such contentions. However, the said principle is not applicable to the present case at this stage. Having regard to the stage of the case, I grant liberty to the petitioner to canvass such points relating to the merits of the case at the stage of consideration of charges by way of filing an application under Section 239 of the Code of Criminal Procedure, if so advised. No interference is called for in the present revisional application.

Accordingly, CRR 1209 of 2021 is disposed of.

Pending application, if any, is consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)