

05.07.2023

Item No.7
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 4407 of 2022

In the matter of : **Sri Tapas Kumar Dutta** ... Petitioner.

Mr. Pankaj Halder,
Mr. Sanatan Panja,
Mr. Tapas Manna,
Mr. S. Balial,
Mr. S. Bhattacharyya ... For the Petitioner.

Mr. Ranabir Roy Chowdhury,
Mr. Koushik Kundu ... For the State.

Report dated 03.07.2023 submitted by Mr. Roy Chowdhury, learned advocate appearing for the State be kept on record.

The said report encloses a statement of the de facto complainant/opposite party no.1 viz. Piyali Dutt nee Ghosh where she has stated that she has received the copy of this revisional application and narrated to the concerned officer that there has been a mutual divorce, the decree of which was passed. She has received whole of the amount as per the orders and/or undertaking given before the court. However, she is unable to take decision whether to withdraw the proceedings which she initiated under Section 498A of the Indian Penal Code being Baguiati Police Station Case No. 426 dated 04.06.2012.

I have taken into account the statement as also the joint application under Section 28 of the Special Marriage Act, 1954 filed by Piyali Dutta nee Ghosh and Tapas Kumar

Dutta, the present petitioner. Paragraph 9(d) of the said application is set out as follows :

“9. d). The wife petitioner no.1 further undertake to co-operate for withdrawing all proceeding including the criminal proceeding under Section 498A of the Cr.P.C. initiated at the instant of the petitioner no.1 against the petitioner no.2 up to Hon’ble High Court at Calcutta or Apex Court. It is further declaring by the petitioner no.1 that only after materialization of the said acts, the wife petitioner no.1 shall use the said draft for encashment only, otherwise, the petitioner no.2 shall have or reserve his right to stop payment of said draft. It is further asserted that the allegations made in the complaint under the proceeding of Section 498A of the Cr.P.C. were false and it was the vindication and retaliation of grudge and anguish with reality.

Be it mention that Their Lordships were pleased to pass an order and/or directions upon the petitioners and also the learned Trial Court, the said order copy obtained from Official High Court Website is enclosed herewith and marked with letter “B”.”

Reference has also been made in respect of the money receipt with regard to two demand drafts in favour of the said Piyali Dutt nee Ghosh which amounted to Rs.10,00,000/- and was dated 04.07.2022. The present case was initiated in the year 2012. More than 11 years have passed and in the meantime in MAT Suit No. 1640 of 2022, the learned District Judge, Barasat, North 24-Parganas was pleased to observe as follows :

“That the Matrimonial Suit under Section 28 of the Special Marriage Act, 1954, be and the same is decreed by mutual consent. The marriage between Smt. Piyali Dutta nee Ghosh and Sri Tapas Kumar Dutta which was solemnized on 25.01.2010, as per provisions of the Special Marriage Act,

1954, and the marital relationship between them stand dissolved with effect from this date.”

Having regard to the changed circumstances, I am of the opinion that further continuance of the proceedings arising out of Baguiati Police Station Case No. 426 dated 04.06.2012 corresponding to G.R. Case No. 2914 of 2012 under Section 498A of the Indian Penal Code pending before the learned Chief Judicial Magistrate, Barasat, North 24-Parganas would result in abuse of process of law. As such, the said proceedings are quashed.

The revisional application being CRR 4407 of 2022 is, thus, allowed.

Pending connected application, if any, is consequently disposed of.

All concerned 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 with all requisite formalities.

(Tirthankar Ghosh, J.)