

**IN THE HIGH COURT AT CALCUTTA**

**Circuit Bench at Jalpaiguri**

**(Criminal Revisional Jurisdiction)**

**APPELLATE SIDE**

**Present:**

**The Hon'ble Justice Shampa Dutt (Paul)**

**CRR 76 of 2023**

**With**

**CRAN 1 of 2023**

**Apu Barua & Anr.**

**Vs.**

**The State of West Bengal & Anr.**

**For the Petitioners** : Mr. Debajit Kundu.

**For the State** : Mr. Aditi Shankar Chakraborty,  
: Mr. Ujjwal Luksom.

**For the Opposite Party No.2** : Mr. Kumar Shantanu,  
Mr. Rahul Ghatak.

**Hearing concluded on** : 10.10.2023

**Judgment on** : 11.10.2023

**Shampa Dutt (Paul), J.:**

1. The present revision has been preferred praying for quashing of proceeding being G.R. Case No. 1118 of 2020, in connection with Coochbehar Kotwali Police Station Case No. 552 of 2020 dated 13.12.2020 under Sections 448/341/325/326/354/34 of the Indian Penal Code and charge sheet being no. 694 of 2022 dated 31.05.2022 now pending before the learned Chief Judicial Magistrate, Sadar Court, Coochbehar.

**CRAN 1 of 2023**

2. **CRAN 1 of 2023 is a joint application** of compromise filed by both the parties, on affidavit.
3. The learned counsel for the State has placed the case diary. On perusal of the case diary and the materials therein, which includes a medical prescription of a Doctor attached to the government hospital at Coochbehar, it is seen that some reports and X-ray has been advised. X-ray report dated 19.12.2020 shows "*Bicortical displaced fracture noted at proximal shaft of right ulna with associated soft tissue swelling*". The prescription does not note any history of assault, though the complainant in the written complaint has stated regarding the assault. **Now the parties have amicably settled their dispute.** Though some of the offences alleged are not compoundable but the petitioner has invoked

the provision under Section 482 of Cr.P.C. in the interest of justice, praying for exercise of this courts inherent powers.

4. CRAN 1 of 2023 is an application wherein the parties including the complainant on affidavit have stated that the dispute between the parties has been amicably settled. The complainant has stated in her written complaint that the accused persons allegedly wrongfully entered into her house and assaulted her with wooden battam “*causing injuries and broken bone*”. But it appears that both the medical prescription and the X-ray report relate to one Beauty Barua and not the complainant Sabitri Barua who stated that she suffered injuries and broken bone. Considering all these facts and the fact that the parties to this case are full-blooded brother and sister and reside in the same house and have also settled their dispute, **the Court should play a positive role to mend broken relationships.**
5. A Three Judge Bench of the 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 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 predominately 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.”*

**6. *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).*

**7. The joint application filed by the parties clearly shows that an amicable settlement and compromise has been arrived at between the parties** and the complainant does not wish to proceed with the G.R. Case No. 1118 of 2020, in connection with Coochbehar Kotwali Police Station Case No. 552 of 2020 dated 13.12.2020 under Sections

448/341/325/326/354/34 of the Indian Penal Code and charge sheet being no. 694 of 2022 dated 31.05.2022 now pending before the learned Chief Judicial Magistrate, Sadar Court, Coochbehar in respect of the petitioners namely Apu Barua and Mintu Barua.

8. **From the materials on record,** it is clear that dispute in the present case is private in nature and the parties have now resolved their entire dispute by way of a compromise/settlement on affidavit 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***).
9. As such this court is of the view that it would be unfair and contrary to the interest of justice to continue with the criminal proceedings which would tantamount to abuse of process of law in view of the settlement arrived at between the parties in respect of their dispute and to secure the ends of justice it would be prudent to quash the proceedings in the case as prayed for.
10. **Accordingly, the revisional application being CRR 76 of 2023 is allowed.**
11. The proceeding being G.R. Case No. 1118 of 2020, in connection with Coochbehar Kotwali Police Station Case No. 552 of 2020 dated

13.12.2020 under Sections 448/341/325/326/354/34 of the Indian Penal Code and charge sheet being no. 694 of 2022 dated 31.05.2022 now pending before the learned Chief Judicial Magistrate, Sadar Court, Coochbehar **is hereby quashed** in respect of the petitioners namely Apu Barua and Mintu Barua.

12. There will be no order as to costs.
13. Interim order, if any, stands vacated.
14. All connected applications, if any, stand disposed of.
15. Copy of this judgment be sent to the learned Trial Court for necessary compliance.
16. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

**(Shampa Dutt (Paul), J.)**