

**IN THE HIGH COURT AT CALCUTTA**

**Circuit Bench at Jalpaiguri**

**(Criminal Revisional Jurisdiction)**

**APPELLATE SIDE**

**Present:**

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

**CRR 158 of 2021**

**With**

**CRAN 1 of 2021**

**Santosh Kumar Prasad @ Santosh Prasad & Anr.**

**Vs.**

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

**For the Petitioners** : Mr. Shubhankar Dutta.

**For the State** : Mr. Aditi Shankar Chakraborty,  
: Mr. Sourav Ganguly.

**For the De facto Complainant** : Mr. Debajit Kundu.

**Hearing concluded on** : 09.10.2023

**Judgment on** : 10.10.2023

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

1. The present revision has been preferred praying for quashing of proceeding in Special Case No. 10 of 2021 (R No. 10 of 2021) arising out of Banarhat Police Station Case No. 259 of 2021 dated 28.07.2021 under Sections 493/376/417/342/420/506/509/34 of the Indian Penal Code, 1860 read with Sections 3(1)(Xii) SC/ST (POA) Act which is currently pending before the learned Additional District Judge, 1<sup>st</sup> Court, Jalpaiguri (Special Court) under ST/SC (POA) Act, 1989.
2. The petitioners case is that the opposite party no. 2/de facto complainant filed a written complaint against the petitioners with Banarhat Police Station stating therein that:-

*“that since 2008, by giving her false assurance of marriage and property one person namely Jay Chand sexually assaulted her several times and for the benefit for his business forced her to sleep many persons, that the said Jay Chand also forced her to marry one Roman Munda of Haldibari Malabgi under Hashimara OP but after two years of the said marriage said Roman left her with her 4 years old son, that all was done by Jay Chand under his conspiracy, that whenever she wanted to ask for her right the said Jay Chand kept telling her that he would give her land and resort, that on 25.08.2020 at about 7 p.m. she went to meet MP John Barla near Alipurduar at his house then after listening her John Barla asked her to meet with him on 30<sup>th</sup> August, 2020 at about 4 p.m., that after her arrival John Barla called the said Jay Chand and after making several calls Jay Chand visited the house of John Barla and thereafter John Barla locked her in a separate room and spoke with Santosh Prasad and Sanjay Chawdhury in front of Jay Chand,*

*that after some times she was taken out from the room and thereafter they threatened her and forced her to sign over 4/5 papers, that the said Jay Chand gave her Rs. 10 lakhs whereas among the said Rs. 10 lakhs said John Barla gave her only Rs. 2 lakhs and told her 'as it was late night so it is not safe for her to carry more money, so he will send her rest of the amount on very next day, that hereafter Barla told her 'do not tell anyone about this matter, on and from today this matter is over', that thereafter she came back to her house but 2/3 days had been passed she did not get the rest of the amount, that thereafter she kept calling John and after many days she got Rs. 1 lakh from Sanjay Chowdhury, that thereafter she came to know that Sanjay Chowdhury got Rs. 3 lakhs in the same day, that as she belongs to tribal community she went to Barla for justice but he did not helped her, that after 3/4 months Jay Chand phoned her and said her "what is the benefit of going to MP Barla? You insulted me but I know you did not get full amount but I gave them Rs. 50 lakhs on that day', that being a tribal, she has been cheated by MP John Barla and his colleagues."*

*That the said complaint has been treated as the First Information Report being Banarhat Police Station Case No. 259 of 2021 dated 28.07.2021 under Sections 493/376/417/342/420/506/509/34 of the Indian Penal Code, 1860 read with Sections 3(1)(Xii) SC/ST (POA) Act, 1989."*

3. **Charge sheet has been submitted being Charge Sheet No. 247 of 2022 under Sections 506/417/420/342/34 of the Indian Penal Code against the petitioners in the present case being Sanjay Chowdhury and Santosh Prasad.**

#### **CRAN 1 of 2021**

4. **CRAN 1 of 2021 is a joint application** on affidavit filed by the parties stating that **an amicable settlement** has been arrived at by and between

the parties and as a result whereof the de facto complainant/opposite party no. 2 is not willing to proceed any further with the case in respect of the petitioners herein.

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 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.”*

- 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 Special Case No. 10 of 2021 (R No. 10 of 2021) arising out of Banarhat Police Station Case No. 259 of 2021 dated 28.07.2021 and Charge Sheet No. 247 of 2022 under Sections 506/417/420/342/34 of the Indian Penal Code, filed against the petitioners herein being Sanjay Chowdhury and Santosh Prasad currently pending before the learned Additional District Judge, 1<sup>st</sup> Court, Jalpaiguri (Special Court) under ST/SC (POA) Act, 1989.
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 158 of 2021 is allowed.**
11. The proceeding in Special Case No. 10 of 2021 (R No. 10 of 2021) arising out of Banarhat Police Station Case No. 259 of 2021 dated 28.07.2021 and **Charge Sheet No. 247 of 2022 under Sections 506/417/420/342/34 of the Indian Penal Code in respect of the petitioners in the present case being Sanjay Chowdhury and Santosh Prasad** pending before the learned Additional District Judge, 1<sup>st</sup> Court, Jalpaiguri (Special Court) under ST/SC (POA) Act, 1989 **is hereby quashed.**
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.)**