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October 5, 2023.
GSD

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRR 232 of 2022

In the matter of: Viki Ghosh & Ors.

.... Petitioners

Mr. Surajit Basu
Mr. Manoj Kurmi

... for the petitioners

Mr. Aditi Sankar Chakraborty
Mr. Kallol Acharya

... for the State

The present revisional application was preferred challenging the proceedings arising out of Alipurduar Women P.S. Case No. 25 of 2018 dated 7.5.2018 under Sections 498A/307/313 of the IPC, wherein the investigating agency after conclusion of investigation submitted charge-sheet under sections 498A and 307 of the IPC.

After the case was committed to the Court of Sessions, the Id. Sessions Court was pleased to frame charges on or about 21.12.2019 and, thereafter, fixed dates for evidence.

In the meantime, it has been contended that the parties have separated in life and a matrimonial suit being Matrimonial Suit No. 278 of 2019 was preferred and by an order dated 25th of March, 2021, a decree of dissolution of marriage between the petitioner no.1 and the defacto-complainant being Puja Ghosh (Sen) was passed by the Id. Additional District Judge, 1st Court (1) Alipurduar.

Pursuant to the present application being preferred, a report was called for on 27.9.2023 for recording the statement of the defacto-complainant/opposite party and also accepting the declaration from her as to whether she intends to pursue with the Alipurduar Women P.S. Case No. 25 of 2018, which was subsequently re-numbered before the Id. Sessions Court as S.T. Case No. 23(12)/2019, which is presently pending before the Ld. District and Sessions Judge, Fast Track 1, Alipurduar.

The statement which has been recorded reflects that the defacto-complainant is not interested to pursue with the case as she has obtained an order of divorce. In her declaration she has also categorically stated that she has no objection if the accused persons are acquitted. There are other contents also in the declaration which are not relevant for the purposes of the present case.

I find from the records that charge was framed under Section 307 of the IPC, as such, I scrutinized the case diary and I find that the only allegation which is there for the purpose of Section 307 of the IPC, is pressing with the pillow. There are no medical reports which would suggest whether the said charge is sustainable or not.

Having considered the facts that the lady/defacto-complainant is not interested to pursue with the present case, I am of the opinion that further continuance of the proceedings may not be for the interest of justice as the chances of conviction are bleak.

Consequently, all further proceedings arising out of Alipurduar Women P.S. Case No. 25 of 2018 dated 7.5.2018 which has re-numbered as S.T. Case No. 23(12)/19 presently pending before the Id. Additional District and Sessions Judge, Fast Track Court 1, Alipurduar, is hereby quashed.

Accordingly, CRR 232 of 2022 is hereby allowed.

Pending application, if any, is also disposed of.

The report so submitted by the concerned police officer of Alipurduar Women P.S., be kept with the record.

The findings of the present case are restricted only to the facts of this case and may not be binding as a precedent in other cases.

Parties shall act on the server copy of this order, duly collected from the official website of the Hon'ble High Court, Calcutta.

(Tirthankar Ghosh, J.)