

**CRR 643 of 2022
With
CRAN 1 of 2024**

**Amit Mondal @ Amit Kumar Mondal & Ors.
Vs.
The State of West Bengal & Anr.**

Mr. Sekhar Kumar Basu, Sr. Adv. Mr. Kusal Kumar Mukherjee Mr. Diptangshu Basu	...for the petitioners
Mr. Subhajit Das Mr. Koyel Senapati	...for the O.P. no. 2
Mr. Imran Ali Ms. Puspita Saha	...for the State

This is an application wherein the petitioners have sought for quashing of the proceeding being ACGR case no. 159 of 2022 arising out of Haridevpur Police Station case no. 9 of 2022 dated 12th January, 2022 under Section 498A/406/34 of the Indian Penal Code, read with Section 4 of the Dowry Prohibition Act, presently pending before the learned Additional Chief Judicial Magistrate, Alipore, South 24 Parganas.

The allegation leveled against the accused persons in the first information report is that the opposite party no. 2/Defacto-complainant married with the petitioner on 21st January, 2014, but soon thereafter, she was subjected to physical and mental cruelty for non-payment of demanded dowry. Ultimately, on 18th December, 2021, the accused persons/petitioners had driven out the opposite party no. 2 from her matrimonial home and since then, she is residing at her paternal home. Before that the

petitioner no. 1 and defacto-complainant filed a suit for mutual dissolution of marriage under Section 13B of the Hindu Marriage Act being Matrimonial Suit no. 2681 of 2017 on payment of Rs. 7,00,000/- by the petitioner/husband to the opposite party no. 2/complainant as reflected in this Court's order dated 3rd March, 2022. It is further admitted that the parties started residing separately since 15th August, 2015. However, during pendency of the investigation proceeding, parties have decided not to proceed with the said criminal proceeding and they have filed a joint compromise petition being CRAN 1 of 2024 before this court, which was signed by both the parties, with a joint prayer for quashing the said criminal proceeding.

In the said application, it has been categorically stated by both the parties that during pendency of present proceeding and some other cases filed against each other, good conscience prevailed and they decided to settle all the pending disputes and cases amicably by withdrawing the same and to that extent, a Memorandum of Understanding (MOU) has been executed by both the parties in the month of September, 2024 and the same has been duly notarized in presence of the parties and witnesses. Furthermore, in terms of said MOU, the defacto-complainant has received Rs. 50,000/-. It has also been averred in the present application by both the parties that in view of such settlement, further continuation of the instant case is likely to put accused persons/petitioners herein to oppression and prejudice and extreme injustice would be caused if the case be not quashed. Furthermore, it is also averred that in view of amicable settlement, the possibility of conviction of the petitioners is remote

and bleak and keeping the said criminal proceeding alive would be sheer abuse of process of Court, which are grossly overburdened.

Accordingly, learned counsels for the petitioners and the opposite party no. 2 submits that the impugned proceeding may be quashed.

Learned counsel for the State submits that the present family dispute is purely private in nature and if the parties have amicably settled their dispute among themselves, the State does not want to stand in their way.

Having considered the facts of the case and also considering the submissions made by both the parties it appears to me, what would happen to the trial of the case where the defacto-complainant does not want to support the imputations made in the complaint. From the averments made in the present petition, it is clear that defacto-complainant has willingly parted company and living separately for a long period of time and there would almost be no chance of conviction. In such circumstances, I am unable to persuade myself to decline to exercise power of quashing, merely on the ground that the offence under Section 498A of the Indian Penal Code is a non-compoundable offence specially when it is very much apparent that no fruitful purpose is likely to be served by allowing the criminal proceeding to continue. On the contrary, there is every likelihood that non-exercise of power under Section 482 of the Code of Criminal Procedure in the present context, in order to meet the ends of justice, may prevent the parties from settling their dispute which is absolutely private in nature.

In such view of the matter, CRR 643 of 2022 along with CRAN 1 of 2024 are allowed.

The impugned proceeding being ACGR case no. 159 of 2022 presently pending before the learned Additional Chief Judicial Magistrate, Alipore, South 24 Parganas is hereby quashed.

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

(Ajoy Kumar Mukherjee, J.)