

CRR 1198 of 2022
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IA No.: CRAN 4 of 2024

Mustak Khan @ Sk. Md. Mustaq & Ors.
vs.
State of West Bengal & Ors.

For the Petitioners : Mrs. Manaswita Mukherjee.

For the State : Mr. Prasun Kr. Dutta,
Mr. Subrata Roy.

For the Opposite Party No. 2 : Mr. Karan Dudhwewala.

For the Opposite Party No. 3 : Mr. Surajit Saha.

1. The present revision has been preferred praying for quashing of proceedings of Special (A) Case No. 07/2021 dated 21.12.2021 pending before the Court of the Learned Judge, Special Court under the Atrocities Act, 1st Court, Şuri, arising out of Bolpur Police Station Case No. 392 of 2021 dated 24.10.2021 and Charge Sheet bearing No. 406/2021 dated 20.12.2021, under Sections 341/342/323/354/34 of the Indian Penal Code read with Sections 3(1)(r)(s)(w)(i) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.
2. **CRAN 4 of 2024** filed, is a joint application on affidavit stating that the parties have arrived at an amicable settlement in the present case and the

complainant/opposite party does not have any grievance if the proceedings in the present case is quashed in respect of the petitioners.

3. 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.”

4. 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).*

5. 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 criminal case against the

petitioners being Special (A) Case No. 07/2021 dated 21.12.2021 pending before the Court of the Learned Judge, Special Court under the Atrocities Act, 1st Court, Şuri, arising out of Bolpur Police Station Case No. 392 of 2021 dated 24.10.2021 and Charge Sheet bearing No. 406/2021 dated 20.12.2021, under Sections 341/342/323/354/34 of the Indian Penal Code read with Sections 3(1)(r)(s)(w)(i) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

6. In ***Ramawatar vs State of Madhya Pradesh, (2022) 13 SCC 635, decided on October 25, 2021***, the Supreme Court held:-

“17. On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a “special statute” would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482CrPC.

18. Adverting to the case in hand, we note that the present appellant has been charged and convicted under the unamended Section 3(1)(x) of the SC/ST Act [Section 3(1)(x) of the Act stands substituted by Act 1 of 2016 w.e.f. 26-1-2016.] , which was as follows:

“3. Punishments for offences of atrocities.—(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe—

* * *

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;”

19. We may hasten to add that in cases such as the present, the courts ought to be even more vigilant to ensure that the complainant-victim has entered into the compromise on the volition of his/her free will and not on account of any duress. It cannot be understated that since members of the Scheduled Caste and Scheduled Tribe belong to the weaker sections of our country, they are more prone to acts of coercion, and therefore ought to be accorded a higher level of protection. If the courts find even a hint of compulsion or force, no relief can be given to the accused party. What factors the courts should consider, would depend on the facts and circumstances of each case.

20. Having considered the peculiar facts and circumstances of the present case in light of the aforestated principles, as well as having meditated on the application for compromise, we are inclined to invoke the powers under Article 142 and quash the instant criminal proceedings with the sole objective of doing complete justice between the parties before us. We say so for the reasons that:

20.1. Firstly, the very purpose behind Section 3(1)(x) of the SC/ST Act is to deter caste-based insults and intimidations when they are used with the intention of demeaning a victim on account of he/she belonging to the Scheduled Caste/Scheduled Tribe community. In the present case, the record manifests that there was an undeniable pre-existing civil dispute between the parties. The case of the appellant, from the very beginning, has been that the alleged abuses were uttered solely on account of frustration and anger over the pending dispute. Thus, the genesis of the deprecated incident was the aforestated civil/property dispute. Considering this aspect, we are of the opinion that it would not be incorrect to categorise the occurrence as one being overwhelmingly private in nature, having only subtle undertones of criminality, even though the provisions of a special statute have been attracted in the present case.

20.2. Secondly, the offence in question, for which the appellant has been convicted, does not appear to exhibit his mental depravity. The aim of the SC/ST Act is to protect members of the downtrodden classes from atrocious acts of the

upper strata of the society. It appears to us that although the appellant may not belong to the same caste as the complainant, he too belongs to the relatively weaker/backward section of the society and is certainly not in any better economic or social position when compared to the victim. Despite the rampant prevalence of segregation in Indian villages whereby members of the Scheduled Caste and Scheduled Tribe community are forced to restrict their quarters only to certain areas, it is seen that in the present case, the appellant and the complainant lived in adjoining houses. Therefore, keeping in mind the socio-economic status of the appellant, we are of the opinion that the overriding objective of the SC/ST Act would not be overwhelmed if the present proceedings are quashed.

20.3.*Thirdly, the incident occurred way back in the year 1994. Nothing on record indicates that either before or after the purported compromise, any untoward incident had transpired between the parties. The State Counsel has also not brought to our attention any other occurrence that would lead us to believe that the appellant is either a repeat offender or is unremorseful about what transpired.*

20.4.*Fourthly, the complainant has, on her own free will, without any compulsion, entered into a compromise and wishes to drop the present criminal proceedings against the accused.*

20.5.*Fifthly, given the nature of the offence, it is immaterial that the trial against the appellant had been concluded.*

20.6.*Sixthly, the appellant and the complainant parties are residents of the same village and live in very close proximity to each other. We have no reason to doubt that the parties themselves have voluntarily settled their differences. Therefore, in order to avoid the revival of healed wounds, and to advance peace and harmony, it will be prudent to effectuate the present settlement.”*

- 7. From the materials on record,** it is clear that dispute in the present case is a private dispute 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, (Supra))***.

8. 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.
9. **Accordingly, the revisional application being CRR 1198 of 2022 is allowed.**
10. The proceedings of Special (A) Case No. 07/2021 dated 21.12.2021 pending before the Court of the Learned Judge, Special Court under the Atrocities Act, 1st Court, Şuri, arising out of Bolpur Police Station Case No. 392 of 2021 dated 24.10.2021 and Charge Sheet bearing No. 406/2021 dated 20.12.2021, under Sections 341/342/323/354/34 of the Indian Penal Code read with Sections 3(1)(r)(s)(w)(i) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, **is hereby quashed in respect of the petitioners.**

- 11.** All connected Applications, if any, stands disposed of.
- 12.** Interim order, if any, stands vacated.
- 13.** Copy of this order be sent to the learned Trial Court for necessary compliance.
- 14.** Urgent certified website copy of this order, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)