

25.01.2024

Piya

Sl no.2

Ct no. 30

**CRR 2670 of 2019
(Assigned)**

With

CRAN 5 of 2023

IBM India Private Limited & Ors.

Vs.

Gour Mohan Khatua

Mr. Sandipan Ganguly, Sr. Adv.

Mr. Somopriyo Chowdhury,

Mr. Pratik Shanu,

...for the Petitioners.

Mr. Gour Mohan Khatua

..... Opposite party in-person.

1. The present revision has been preferred praying for quashing of proceedings in complaint case no. AC3551/18 (T.R. 758/18) under Sections 500/506/34 of the Indian Penal Code pending before the Ld. 10th Judicial Magistrate Alipore and all orders passed therein including the order dated 14.08.18 passed by the Learned Additional Chief Judicial Magistrate, Alipore, 24 Parganas South thereby taking cognizance and order dated 16.02.19 passed by the Learned 10th Judicial Magistrate, Alipore thereby issuing process against the

Petitioners and also order dated 15th July, 2019 thereby issuing warrant of arrest against the Petitioner nos. 2 to 4 and order dated 2nd September, 2019 thereby refusing to entertain the petition under Section 205 and 305 of Criminal Procedure Code passed by the Learned 10th Judicial Magistrate, Alipore.

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- 2. CRAN 5 of 2023 is a joint application** of compromise filed by both the parties, on affidavit.
- 3.** The instant case being Complaint Case No. AC3551/18 (T.R. 758/18) under Sections 500/506/34 of the Indian Penal Code was instituted pursuant to a petition of complaint filed before the learned Additional Chief Judicial Magistrate, Alipore, South 24 Parganas.
- 4. The allegations being of defamation.**
- 5. Now the parties have amicably settled their dispute.** The offences alleged are compoundable and the complainant has submitted that he has no objection if the complaint case is quashed in respect of the petitioners as they have amicably settled the matter.
- 6.** 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.”

- 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 proceedings in complaint case no. AC3551/18 (T.R. 758/18) under Sections 500/506/34 of the Indian Penal Code pending before the Ld. 10th Judicial Magistrate Alipore, in respect of the petitioners.

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. Thus, 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 2670 of 2019 is allowed.**
11. The proceedings in complaint case no. AC3551/18 (T.R. 758/18) under Sections 500/506/34 of the

Indian Penal Code pending before the Ld. 10th Judicial Magistrate Alipore and all orders passed therein by the Learned 10th Judicial Magistrate, Alipore **is hereby quashed** in respect of the petitioners.

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

(Shampa Dutt (Paul), J.)