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24.9.2024
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**CRR 3458 of 2017
With
CRAN 1 of 2017(Old CRAN 4393 of 2017)**

**Sariful Islam Mallick & Ors.
Vs.
The State of West Bengal & Anr.**

Mr. Raja Biswas
Mr. Abhijit Sarkar ...for the petitioner

Mr. Imran Ali
Mr. Saptarshi Chatterjee ...for the State

Report submitted by the Officer-in-charge, Bhangar Police Station dated 18.09.2024 is taken on record.

This is an case where the petitioner/accused persons have sought for quashing the impugned proceeding being Bhangar Police Station case no. 294 of 2015 dated 5.5.2015 presently pending before the learned Additional Chief Judicial Magistrate, Baruipur, South 24 parganas.

The case was initiated by the defacto-complainant/opposite party no. 2 herein under Section 498A/323/307/34 of the Indian Penal Code and after completion of investigation, police has submitted charge-sheet against the petitioners.

However, it is submitted that during pendency of the said proceeding, the parties have amicably settled their dispute and the parties have also dissolved their marriage in the month of July, 2017 and the parties have also agreed to withdraw all the

pending litigations filed against each other. In that connection, they have also filed a joint compromise application being CRAN 1 of 2017.

Learned counsel for the State placing the report submitted by the officer-in-charge, Bhangar Police Station dated 18.9.2024 submitted that as per order of this court, the concerned Investigating Officer has recorded the statement of the victim, Farida Bibi under Section 161 of the Code where she has clearly stated that she wants that the present proceeding against the petitioners should be quashed since after dissolving marriage with accused person/petitioner no. 1, she got married with some other person and presently she is residing at her present matrimonial home. The Investigating Officer has also recorded statement of accused Sariful Islam, who also corroborated the statement of the victim and said that after dissolving marriage with the defacto-complainant herein, he thereafter has also married with one Halima Sardar and presently leading peaceful life with her.

Having considered the submissions made by the parties and upon considering the report submitted by the concerned Investigating Officer, it appears that the alleged offences are basically personal and private in nature and the parties have resolved their entire dispute. In view of compromise between alleged offender and the victim, the possibility of conviction is remote and bleak and continuation of the present criminal proceeding would cause the petitioners/accused persons prejudice and injustice, in spite of full and complete settlement

and compromise with the victim. Simply because an offence is not compoundable under Section 320 of the Code of Criminal Procedure is by itself no reason for the High Court to refuse exercise of its power under Section 482 of the Code, specially when there is no chance of recording a conviction against the petitioners/accused persons and the entire exercise of a trial is destined to be an exercise in futility.

In such view of the matter, CRR 3458 of 2017 is allowed.

The impugned proceeding being Bhangar Police Station case no. 294 of 2015 dated 5.5.2015 corresponding to G.R case no. 2608 of 2015, presently pending before the learned Additional Chief Judicial Magistrate, Baruipur, South 24 parganas is hereby quashed.

Connected application being CRAN 1 of 2017 (Old CRAN 4393 of 2017) is also disposed of.

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

(Ajoy Kumar Mukherjee, J.)