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C.R.R. 554 of 2023
Ankur Sureka
Vs.
The State of West Bengal & Anr.
With
C.R.R. 2010 of 2024
Abhishek Sureka & Ors.
Vs.
The State of West Bengal & Anr.

Mr. Ayan Bhattacharjee
Mr. Indrajit Adhikary
Mr. Pawan Kumar Gupta
Mr. Somnath Roy
Ms. Sofia Nesar
Mr. Santanu Sett ...For the Petitioners in both the applications

Mr. Debasish Roy
Mr. Arijit Ganguly
Ms. Sreemayi Roy

...For the State

Mr. Jitesh Sah
Ms. Payel Shaw
Mr. Rinku Patel
Ms. Prama Bose
Ms. Sushma Baruah
Mr. Abhjisena Dey ***...For the Opposite Party No. 2 in both the applications***

Petitioners, de facto complainant and the State are represented.

Learned Counsel appearing on behalf of the State files a report of the I.O. Rajabagan Police Station dated 7th January, 2025 along with the statement of the de facto complainant/victim. Let such report be kept with the record.

Learned Counsel appearing on behalf of the de facto complainant submits on instruction that the prayer of the petitioners in quashing the proceeding may kindly be allowed, as they have amicably settled their dispute.

Learned Counsel appearing on behalf of the State submits that the State does not want to stand in the way as the parties have already

amicably settled their private matrimonial dispute and also because in view of settlement of dispute, there is hardly any chance of conviction at the end of the trial.

From the statement of the complaint recorded on 6th January, 2025, it appears that it would no yield any fruitful result to the trial of the case, where the wife/complainant does not support the allegations made in the FIR. She has categorically made the following statement before the Police :-

“ I state that as per deed of settlement I have received the settlement full and final amount in considering the mutual divorce. I have settled the dispute with my husband and all in-laws, which was resulted out of misunderstanding and I have no objection in getting the pending proceeding quashed by the Hin’ble High Court, Calcutta against all the accused persons. Now I do not want to continue the pending cae against the all accused persons including the allegation under Section 376 of the IPC against the accused Ankur Sureka”.

There may be reason, for not supporting the imputations, as the marriage with principal accused having been dissolved by divorce on consent of parties or for some other grounds but nevertheless in such eventuality, there would be hardly any chance of conviction of the accused persons at the end of trial. Apparently there is nothing to show that above-quoted prayer of defacto-complainant lacks of bona fide, as defacto-complainant also represented today and supported the

contention.

In *Madhavrao Jiwajirao Scindia & others Vs. Samshajirao Chandrajirao Angre & others*, (1998) 1 SCC 692, it was held:-

“The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage.”

In *State of Karnataka Vs. L. Muniswamy & Ors.*, (1977) 2 SCC 699 it was observed :-

“In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than

the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice, between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction..”

Considering the special feature in the present matrimonial discord between the parties which is evident from their representation, it should be the duty of the Court to encourage genuine settlements of matrimonial disputes.

The observation made by Supreme Court in Preeti Gupta & another Vs. State of Jharkhand & another, (2010) 7 SCC 667 is also required to be reproduced in the present context:-

“The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law. We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for Law & Justice to take appropriate steps in the larger interest of the society.”

Therefore, I find that the continuance of proceeding on the

basis of statement made by complainant would be an abuse of process of Court.

In such view of the matter the proceeding being Amherst Street Police Station Case No. 119 of 2021 dated 19th June, 2021, corresponding to G.R. Case 453 of 2021, presently pending before the learned Chief Metropolitan Magistrate, Court-II, Kolkata is hereby quashed.

C.R.R. 554 of 2023 and C.R.R. 2010 of 2024 along with the connected applications, if any, are accordingly disposed of.

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

(Dr. Ajoy Kumar Mukherjee, J.)