

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

**BEFORE:
THE HON'BLE JUSTICE UDAY KUMAR**

CRR 2256 of 2017

**Smt. Rama Chattopadhyay & Anr.
Vs.
The State of West Bengal & Anr.**

For the Petitioners : Mr. Shibaji Das,
Ms. Suveni Banerjee

For the State : Mr. Joydeep Roy,
Mr. Aritra Bhattacharya

Hearing Concluded on : 25th April, 2025

Judgment on : 2nd May, 2025

UDAY KUMAR, J.: –

1. This is an application preferred under the inherent powers of this Court, as enshrined in Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “Cr.P.C.”), seeking to quash the criminal proceedings in G.R. Case No. 415 of 2009, arising out of Kalyani Police Station Case No. 169 of 2009, registered under Sections 498A, 406, 120B, and 34 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”), pending before the Learned Additional Chief Judicial Magistrate, 2nd Court, Kalyani, Nadia. The petitioners in this application are Smt. Rama Chattopadhyay, the mother-in-law, and Arun Chattopadhyay, the brother-in-law, of the opposite party no. 2.

2. The genesis of the present application lies in a matrimonial dispute between the son of petitioner no. 1 and the brother of petitioner no. 2, namely Anjan Chattopadhyay, and the opposite party no. 2, Smt. Chaitali Chattopadhyay. The factual narrative, as discernible from the pleadings and documents on record, unfolds as follows:

- a) The marriage between Anjan Chattopadhyay and the opposite party no. 2 was solemnized on May 19, 2000, in accordance with Hindu rites and rituals. Subsequent to the marriage, the couple resided outside West Bengal due to the professional demands of the husband.
- b) During their cohabitation, the opposite party no. 2 lodged a complaint alleging instances of torture perpetrated by her husband, purportedly stemming from his involvement in an extramarital affair with a lady namely 'Ms. Sutapa'. A male child was born out of this wedlock. However, the opposite party no. 2 alleged dissatisfaction from her in-laws, including the present petitioners, as they were harassing her mentally and physically for demands for dowry and other articles.
- c) Based on the court complaint of opposite party no.2, the Learned Additional Chief Judicial Magistrate, Kalyani, Nadia, directed the Officer in Charge of the Kalyani Police Station upon to lodge a case under Section 156(3) of Cr.P.C. Consequently, Kalyani Police Station Case No. 169 of 2009 was initiated on April 9, 2009, which subsequently led to the

registration of G.R. Case No. 415 of 2009 before the aforementioned Magistrate.

- d) Following investigation, a charge-sheet was submitted on July 12, 2011, arraying the present petitioners and the husband, Anjan Chattopadhyay, as accused persons under Sections 498A, 406, 120B, and 34 of the IPC.
- e) Subsequently, the opposite party no. 2 and her husband, Anjan Chattopadhyay, jointly initiated proceedings for the dissolution of their marriage by mutual consent under Section 13B of the Hindu Marriage Act, 1955. Consequently, their marriage was dissolved by an order for decree of divorce granted on June 26, 2011 by the Additional District Judge, 2nd Court, Barasat.
- f) Following the decree of divorce, the opposite party no. 2 withdrew an application filed under Section 125 of the Cr.P.C., pending before the Court of Learned 2nd Judicial Magistrate, Barrackpore, 24-Parganas (North), but she did not withdraw the impugned criminal proceeding, G.R. Case No. 415 of 2009.
- g) Aggrieved by the continuation of the criminal proceedings despite the dissolution of marriage by mutual consent and the withdrawal of other related proceedings, the petitioners have approached this Court seeking the invocation of its inherent powers under Section 482 of Cr.P.C. for the quashing of the said criminal case.

3. The learned Advocate appearing on behalf of the petitioners argued for the quashing of the criminal proceedings on the following primary grounds:

- i. The learned Advocate drew the attention of this Court to Paragraph No. 6 of the joint petition filed by the opposite party no. 2 and her husband in MAT Suit No. 76 of 2008, the matrimonial case culminating in the decree of divorce. It was specifically stated therein that the parties had mutually agreed that all proceedings, whether civil or criminal, pending before any Court or Authority, shall stand withdrawn. This undertaking formed an integral condition upon which the decree of divorce by mutual consent was granted on June 27, 2011.
- ii. The learned Advocate contended that the continuation of the criminal proceeding against the petitioners, despite the explicit agreement for withdrawal forming the basis of the mutual consent divorce, constitutes a clear abuse of the process of the Court. He argued that the opposite party no. 2, having willingly consented to the withdrawal of all proceedings as a condition for obtaining the divorce, cannot now be permitted to pursue the present criminal case against the petitioners.
- iii. The learned Advocate highlighted that petitioner no. 1 is a senior citizen and petitioner no. 2 is a businessman, implying that the continuation of the criminal proceedings

would cause them undue hardship and prejudice, especially in light of the settled matrimonial dispute.

4. The learned Advocate appearing on behalf of the State of West Bengal opposed the prayer for quashing, primarily arguing that the criminal proceedings are distinct from the matrimonial proceedings and should be allowed to continue based on the merits of the allegations and the evidence collected during the investigation, as reflected in the charge-sheet. The learned Advocate for the opposite party no. 2 did not appear despite service.
5. I have carefully considered the submissions advanced by the learned Advocate for the petitioners and the learned Advocate for the State, and has perused the materials on record, the issue that arises for consideration is:

“whether the continuation of the criminal proceedings against the petitioners, in light of the mutual agreement for withdrawal of all pending cases forming a condition for the decree of divorce by mutual consent, warrants the exercise of the inherent powers of this Court under Section 482 of Cr.P.C. to quash the said proceedings”

6. The sanctity of agreements reached between parties in matrimonial disputes, particularly when they form the basis for a decree of divorce by mutual consent, cannot be lightly disregarded. The law encourages amicable settlements of matrimonial discords to foster peace and harmony between the estranged spouses and their families. In the present case, Paragraph No. 6 of the joint petition for divorce under Section 13B of the Hindu Marriage Act, 1955, unequivocally demonstrates that the withdrawal of all pending civil and criminal

proceedings was a fundamental condition upon which both parties consented to the dissolution of their marriage. The decree of divorce granted by the competent court on June 27, 2011, implicitly acknowledges and is predicated upon this mutual understanding.

- 7.** The subsequent withdrawal of the application under Section 125 of Cr.P.C. by the opposite party no. 2 further underscores her commitment to the terms of the mutual settlement. To now permit the continuation of the present criminal proceedings against the petitioners would not only be contrary to the spirit and letter of the agreement that facilitated the divorce but would also amount to allowing the opposite party no. 2 to resile from her solemn undertaking given to the Matrimonial Court. Such a course of action would undermine the efficacy of mutual consent divorces and could potentially deter parties from seeking amicable resolutions to their matrimonial disputes in the future.
- 8.** The inherent power of this Court under Section 482 of Cr.P.C. is broad and is intended to prevent the abuse of the process of any Court or otherwise to secure the ends of justice. In the present factual scenario, the continuation of the criminal proceedings, despite the clear agreement for their withdrawal as a condition for the mutual consent divorce, undoubtedly constitutes an abuse of the process of the Court. Allowing the criminal case to proceed would perpetuate unnecessary hardship and litigation, particularly for the petitioners, who were parties to the mutual settlement.
- 9.** While it is true that criminal proceedings are generally distinct from matrimonial proceedings and are governed by their own legal principles,

the peculiar facts of this case warrant intervention by this Court. The agreement for the withdrawal of all pending cases was an intrinsic part of the process that led to the amicable resolution of the matrimonial dispute. To disregard this crucial aspect and allow the criminal proceedings to continue would be to defeat the very purpose of facilitating settlements in matrimonial matters and would lead to an unjust outcome.

- 10.** In light of the foregoing analysis, I am of the view that the continuation of G.R. Case No. 415 of 2009 pending before the Learned Additional Chief Judicial Magistrate, 2nd Court, Kalyani, Nadia, would indeed constitute an abuse of the process of the Court. The mutual agreement between the opposite party no. 2 and her husband to withdraw all pending proceedings, which formed the basis for the decree of divorce by mutual consent, is a significant factor that cannot be ignored. To allow the criminal proceedings against the petitioners to persist would be contrary to the principles of equity and good conscience, and would undermine the sanctity of the settlement reached between the parties.
- 11.** Therefore, this application under Section 482 of Cr.P.C. deserves to be allowed.
- 12.** For the reasons stated above, the revisional application being CRR 2256 of 2017 is hereby allowed.
- 13.** Consequently, the criminal proceeding being G.R. Case No. 415 of 2009, pending before the Learned Additional Chief Judicial Magistrate, 2nd Court, Kalyani, Nadia, arising out of Kalyani Police Station Case No. 169 of 2009, is hereby quashed.

- 14.** The interim order(s), if any, shall stand vacated.
- 15.** There is no order as to the cost.
- 16.** Urgent Photostat certified copy of this judgment, if applied for, be given to the parties as expeditiously as possible upon compliance with the necessary formalities in this regard.

(Uday Kumar, J.)