

Item 19.05.
No. 2025
01

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Ct 22

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CRR 4581 of 2023
IA NO: CRAN 1 of 2025

Biprava Ray & Ors.
Vs.
The State of West Bengal

Mr. Satadru Lahiri. ... for the petitioner.

Mr. Anirban Mitra,
Mr. Amit Halder,
Mr. Amit Roy,
Mrs. Madhumita Sadhukhan.
... for the opposite party no.2.

Mr. Debasish Roy. Ld. P.P.
Ms. Sreyashee Biswas,
Mr. Dipankar Paramanick ... for the State.

1. Learned counsel appearing on behalf of the petitioner, de facto complainant as well as State are present.
2. Learned counsel appearing on behalf of the State has submitted a report in compliance with the order dated 24th April, 2025. Let the report be kept with the record.
3. One CRAN application being CRAN 1 of 2024 has been filed jointly at the instance of de facto complainant as well as the petitioner/accused.
4. Both the learned counsel appearing on behalf of the petitioner as well as de facto complainant have submitted before this Court that the dispute between the

parties has already been patched up and de facto complainant also made a statement before the Inspector-in-Charge, Hasnabad Police Station on 26.04.2025. The case was initiated on a complaint by the de facto complainant alleging, inter alia, that there was long standing love affairs between the two adult individuals and they cohabited with each other on the promise of marriage, but lastly petitioner/accused refused to marry her. On receipt of complaint, Hasnabad Police Station case No. 278 of 2022 dated 03.06.2022 under Section 417/376/34 of the Indian Penal Code was initiated and after investigation chargesheet was submitted.

5. Learned counsel appearing on behalf of the petitioner has relied on a case of **Kapil Gupta vs. State (NCT of Delhi) and Another** reported in **(2022) 15 SCC 44**.
6. After going through the relevant paragraph of reported decision, I find that Hon'ble Apex Court relied on the future of the criminal trial where de facto complainant entered into a compromise with the accused and Hon'ble Apex Court dealt with the case of a victim aged about 23 years. Here in the case at hand victim's age was about 21 years at the time of incident.
7. In this circumstances, it would be convenient to reproduce the paragraph 12 onward as under:

“12. It can thus be seen that this Court has clearly held that through the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as

to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. The Court has also to take into consideration as to whether the settlement between the parties is going to result into harmony between them which may improve their mutual relationship.

13. The Court has further held that it is also relevant to consider as to what is the stage of the proceedings. It has been observed that if an application is made at a belated stage wherein the evidence has been led and the matter is at the stage of arguments or judgment, the Court should be slow to exercise the power to quash the proceedings. However, if such an application is made at an initial stage before commencement of trial, the said factor will weigh with the court in exercising its power.

14. The facts and circumstances as stated hereinabove are peculiar in the present case. Respondent 2 is a young lady of 23 years. She feels that going through trial in one case, where she is a complainant and in the other case, wherein she is the accused would rob the prime of her youth. She feels that if she is made to face the trial rather than getting any relief, she would be faced with agony of undergoing the trial.

15. In both the cases, though the charge-sheets have been filed, the charges are yet to be framed and as such, the trial has not yet commenced. It is further to be noted that since Respondent 2 herself is not supporting the prosecution case, even if the criminal trial is permitted to go ahead, it will end in nothing else than an acquittal. If the request of the parties is denied, it will be amounting to only adding one more criminal case to the already overburdened criminal courts.

16. In that view of the matter, we find that though in a heinous or serious crime like rape, the Court should not normally exercise the powers of quashing the proceedings, in the peculiar facts and circumstances of the present case and in order to give succour to Respondents 2 so that she is saved from further agony of facing two criminal trials, one as a victim and one as an accused, we find that this is a fit case wherein the extraordinary powers of this Court be exercised to quash the criminal proceedings.

17. In that view of the matter, the appeal is allowed and proceedings in the criminal cases arising out of the following FIRs are quashed and set aside:

1. FIR No. 569/2020 registered at Police Station, Mehrauli, New Delhi (Rape)

2. FIR No. 824/2020, registered at Police Station, Mehrauli, New Delhi (Extortion)

18. We are grateful to the learned ASG and Mr. Rauf Rahim in going out of their way and acting as a friend of the Court so as to find out about the genuineness of the consent given by Respondent 2.

19. Pending application (s), if any, shall stand disposed of.”

8. After hearing all the learned counsel appearing on behalf of the parties to this revisional application, I also find that though charge-sheet has been filed but charge has not yet been framed and de facto complainant herself is not supporting the case of the prosecution and even if the criminal trial is permitted to go ahead, it will end in nothing else than an acquittal.
9. In that view of the matter, the revisional application stands allowed.
10. As a sequel, the proceeding in connection with SC No. 265 of 2023 corresponding to G.R. Case No. 2368 of 2022 arising out of Hasnabad Police Station Case No. 278 of 2022 dated 03.06.2022 stands quashed.
11. With the aforesaid observation, the revisional application along with connected application stand disposed of.
12. Urgent photostat certified copy of the order, if applied

for, be given to the parties on usual undertakings.

13. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Bibhas Ranjan De, J.)