

06.05.2025
SL No.139
Court No.22
S.Gayen

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

CRR 5006 of 2024

with

CRAN 1 of 2025

Farhad Ahamed

Versus

State of West Bengal & Anr.

Mr. Arnab Chatterjee
Mr. Sujoy Sarkar
Mr. Prasun Mukherjee

...for the Petitioner

Mr. Avinaba Patra

...for the Opposite Party No.2

Mr. Arijit Ganguly
Mr. Mainak Gupta

...for the State

1. This revisional application has been preferred with a prayer for quashing the proceeding in connection with GR Case No. 2168 of 2024 corresponding to Polba P.S. Case No.178 of 2024 under Section 376/313/506 IPC.
2. The case was initiated on receipt of a written complaint from the victim addressed to the Inspector-in-Charge, Haringhata P.S., District- Nadia. The complaint was lodged alleging, inter alia, the victim used to reside in her paternal house along with her minor daughter and she came across with the petitioner through Facebook platform and the petitioner introduced himself as Hindu. Both of them developed physical relation among themselves against her will and thereafter she was raped forcibly and threatened. In the mean time, she became pregnant and she was aborted at the

instance of the petitioner. Lastly on 16th February, 2024, the petitioner came to her paternal house and forcibly raped.

3. Haringhata P.S. Case No. 316 of 2024 under Sections 376/313/506 IPC was started.
4. Mr. Arindam Sil, Sub-Inspector of Police attached to the concerned police station investigated the case and submitted the chargesheet under Sections 376(2)(n)/506 IPC.
5. Learned counsel appearing on behalf of the petitioner submitted that both the petitioner as well as opposite party No.2/victim are adult and they are in the knowledge that both of them are married and therefore, it was a consensual relationship between two adult persons.
6. Learned counsel appearing on behalf of the opposite party No.2 has submitted that the opposite party No.2/victim of this case does not want to proceed with this case.
7. Learned counsel appearing on behalf of the State relied on the statement recorded under Section 161 as well as under Section 164 CrPC and left the matter to the discretion of this Court.
8. On careful perusal of the statement under Section 161 CrPC as well as under Section 164 CrPC, it is clear that the victim had consensual relationship with the petitioner. More so, the relationship was not made on any allegation of fake promise of marriage etc.
9. From the statement of the victim, it is clear that she involved herself in an intimate physical relationship and they gradually became closed. From the statement of the victim, it appears that the parties developed an intimate relation for almost three years.

10. However, on careful scrutiny of the entire case diary, it appears that the relationship between the victim and the petitioner was absolutely consensual and both of them had knowledge of their earlier marriage when they developed relationship. Therefore, there is hardly in scope to come to any prima facie conclusion even that the consent of the defacto-complainant was obtained on any misconception of fact, i.e. promise of marriage etc.
11. Needless to mention various Courts while dealing with the similar nomenclature have consistently held that both the parties are married and aware of each other of the marital status when the consent given under such circumstances shall be deemed consensual rather than coerced or mis-led by a false promise as the initial consent for physical relation will be perceived to be based on mutual attraction as it is expected that both the parties should have been aware of their respective marital obligations.
12. In the aforesaid view of the matter, further proceeding with this case, in my opinion, will be a glaring example of abusing process of Court.
13. With the aforesaid observations, the proceeding in connection with GR Case No. 2168 of 2024 corresponding to Polba P.S. Case No.178 of 2024 under Section 376(2)(n)/506 IPC stands quashed.
14. All the connected applications, if there be any, stands disposed of accordingly.
15. The case diary be returned.
16. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

(Bibhas Ranjan De, J.)