

M/L 17
01-09-2025
Ct. No.446
Saikat

CRR/29/2025

**DEBI PRASAD CHATTERJEE
VS.
THE STATE OF WEST BENGAL & ANR.**

In Re: Application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

Mr. Sourov Mondal, Adv.
Mr. Subhajit Chowdhuri, Adv.
Mr. Rony Mondal, Adv.

...For the Petitioner

Ms. Rituparna Ghosh, Adv.
Ms. Mamata Jana, Adv.

...For the State

1. Affidavit-of-service as filed by the petitioner before this Court is taken on record which shows notice could not be served and the postal endorsement shows the door was closed. At this stage, it is pointed out by the learned advocate appearing for the petitioner that on previous occasion the copy of criminal revisional application along with all annexures were served upon the opposite party No.2 through Speed Post on 6th March, 2023, and then item was delivered on 19th August, 2025. Thereafter, no one appeared to represent the opposite party No.2 and considering the matter being assigned to this Court, further opportunity was given with the direction to the petitioner to serve afresh upon the opposite party No.2, which could not be effected.
2. It is submitted by the learned advocate representing the petitioner that in this case decree of mutual divorce has already been granted in the year 2020. Both the parties entered into a MOU

and in terms and conditions of said MOU all the proceedings are to be withdrawn after dissolving of marriage. It is further submitted that the petitioner has complied with all the terms as agreed upon and wife has not come forward to withdraw the proceeding pending before the learned court of Judicial Magistrate (3rd Court), Durgapur, being G.R. Case No.429 of 2018.

3. The learned Prosecution also supports the case and submits that MOU was entered into on the basis of decree of divorce granted in the year 2020 but that cannot take away the right of the de-facto complainant to proceed with her complaint.
4. On carefully perusal of the record it reveals that on July 14, 2020, the Learned District Judge after examining both the parties and after the parties tendered evidence-in-chief decreed the Matrimonial Suit No.691/2019 on consent under section 13B of Hindu Marriage Act.
5. The instant case arises out of a complaint lodged under section 498A/506 of IPC by the opposite party NO.2 being *de facto* complainant and after investigation the charge-sheet has been submitted on 25th April, 2018 being Charge-sheet No.19/2018 under section 498A/506 of IPC against the husband and after that the matter there was no progress and presently pending for execution of warrant against the present petitioner.
6. In an identical case as the judgment relied upon by the learned advocate reported in **(2005) 3 SCC 299, Ruchi Agarwal vs. Amit Kumar Agarwal and Ors.** The case was a compromise petition was filed in the matrimonial suit and both the parties agreed to withdraw all the civil and criminal cases filed by each

against the other but though other proceeding was withdrawn no steps were taken to withdraw the complaint lodged under section 498A,323 and 506 IPC the Apex Court quashed the proceeding holding that it would be an abusive process of law, if allowed to continue the proceeding.

7. In the instant case excepting the matrimonial suit and the complaint under section 498A/506 of IPC, no other proceeding was pending between the parties and in terms of the compromise the decree of divorce on mutual consent was passed so the MOU was acted upon but no step was taken by the complainant to withdraw the said complaint when the petitioner being an accused is getting harassed regularly and is now facing a warrant of arrest. The complaint despite receiving the copy of the application of this case did not appear and the proceeding before the magistrate is pending since 2018 without any steps.
8. Therefore in view of the above facts and circumstances and considering the decision of the Hon'ble Supreme Court and also the well-settled principle laid down in State of Haryana vs Bhajanlal & ors 1992 Supp .(1) SCC 335 wherein the Hon'ble Supreme Court has summarized certain principles where the complaint can be quashed this Court also is of the view, if the proceeding is allowed to continue it would be abusive of process of law.
9. Accordingly, the revisional application stands allowed.
10. The proceeding pending before the learned court of Judicial Magistrate (3rd Court), Durgapur, being G.R. Case No.429 of 2018 is hereby quashed.

11. Urgent Photostat copy of the order be supplied to the parties if applied for after compliance of all requisite formalities.

[Chaitali Chatterjee (Das), J.]