

Criminal Revision
PRESENT: The Hon'ble Justice Ashim Kumar Roy

Judgment On : 15-02-2010.

C.R.R. No. 45 of 2010
Prakash Karar
versus
The State of West Bengal & Anr.

Point:

QUASHING: Dispute is private in nature has been settled by the parties-Proceeding of criminal case whether would amount to an abuse of process of Court and be quashed- Code of Criminal Procedure, 1973, S. 482.

Fact: The petitioner/husband by filing the instant application prayed for quashing of a charge-sheet relating to an offence punishable under Section 366 of the Indian Penal Code.

Held:

The dispute has been settled by and between the parties out of Court and the petitioner has married the victim girl and living together as husband and wife happily and peacefully, at the same time the defacto complainant has expressed his willingness not to proceed with the aforesaid criminal case against the petitioner. There is, thus no possibility of the aforesaid criminal case to reach its logical conclusion. In such circumstances allowing the present criminal proceedings to continue any further would amount to an abuse of process of Court. In view of above, the impugned proceeding stands quashed. Paragraph – 2

For Petitioner : Mr. Dipanjan Chatterjee

For State : Ms. Sreyasee Biswas

The Court:

Invoking Section 482 of the Code of Criminal Procedure, the petitioner/husband has moved this Court for quashing of a charge-sheet relating to an offence punishable under Section 366 of the Indian Penal Code.

At the time of hearing of the case the petitioner as well as the victim girl and the defacto complainant of the case, the father of the victim girl all were personally present in Court.

2. Upon hearing the learned advocates appearing on behalf of the parties and considering the materials in record it appears that after institution of the aforesaid criminal case admittedly the present petitioner has married the victim girl Prabati Saha according to Hindu Rites and Customs and in the said wedlock she has given birth to a child, who is now aged about 3 and half years. It is also an admitted position both the present petitioner and the said Prabati Saha are leading their conjugal life as husband and wife happily and peacefully. It is also an admitted position at the present moment the defacto complainant, the father of the Prabati Saha has no grievance against the petitioner and he has also expressed his desire not to proceed with the criminal case instituted by him. Therefore, not only that the dispute has been settled by and between the parties out of Court and the petitioner has married the victim girl and living together as husband and wife happily and peacefully, at the same time the defacto complainant has expressed his willingness not to proceed with the aforesaid criminal case against the petitioner. There is, thus no possibility of the aforesaid criminal case to reach its logical conclusion. In such circumstances allowing the present criminal proceedings to continue any further would amount to an abuse of process of Court. In view of above, the impugned proceeding stands quashed.

Criminal Section is directed to deliver urgent Photostat certified copy of this Judgement to the parties, if applied for, as early as possible.

(Ashim Kumar Roy, J.)