

Criminal RevisionPresent: **The Hon'ble Justice Ashim Kumar Roy**

Judgment on: 10.03.2010

C.R.R. No. 4594 of 2009**Md. Ashraful Haque & Ors.****versus****Kalpakam Rehman & Anr.****Point:**

QUASHING: Dispute between husband and wife and subsequently settled-Allowing criminal proceeding whether abuse of process of court-Code of Criminal Procedure, 1973 S. 482.

Fact: The petitioners who have been charge-sheeted under Sections 498A/323 of the Indian Penal Code have filed the instant application for quashing of the same on the ground that the matrimonial dispute which is the subject matter of the case has been settled out of Court by and between the parties.

Held:

The dispute between the parties is purely private in nature. Since the defacto-complainant is no longer desirous to proceed with the criminal case instituted at her behest, there is no chance of the said criminal case to reach to its logical conclusion. (Paragraph – 3)

Allowing this criminal prosecution to continue any further would amount to sheer abuse of process of Court. Furthermore, in the facts and circumstances of the case the ends of justice demands that the impugned charge-sheet be quashed. (Paragraph – 4)

For Petitioners : Mr. Md. Shahjahan Hossain
Ms. Sanjida Sultana

For State : Mr. Swapan Kumar Mullick

For O.P. No. 1 : Mr. A. R. Mollik

The Court: The petitioners who have been charge-sheeted under Sections 498A/323 of the Indian Penal Code, being the husband and his relations, have approached this Court for quashing of the said charge-sheet on the ground, that the matrimonial dispute which is the subject matter of the case has been settled out of Court by and between the parties.

2. Having heard the learned advocates for the parties and perusing the averment made in the affidavits jointly filed by the parties, I find the matrimonial dispute has been amicably settled out of Court by and between the parties and at present the wife, opposite party, has been residing with her husband and their minor female child aged about 5 years, at her matrimonial home. The defacto-complainant, the wife/opposite party following such amicable settlement is no longer desirous to proceed with the criminal case instituted by her.

3. The dispute between the parties is purely private in nature. Since the defacto-complainant is no longer desirous to proceed with the criminal case instituted at her behest, there is no chance of the said criminal case to reach to its logical conclusion.

4. In such view of the matter, I am of the opinion allowing this criminal prosecution to continue any further would amount to sheer abuse of process of Court. Furthermore, in the facts and circumstances of the case the ends of justice demands that the impugned charge-sheet be quashed.

5. Accordingly, this application succeeds and stands allowed. The impugned charge-sheet is 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.)