

(1983) 08 CAL CK 0016

Calcutta High Court

Case No: Criminal Rev. No. 801 of 1980

Ajit Kumar Gayen and Others

APPELLANT

Vs

Jyotsna Pal and Another

RESPONDENT

Date of Decision: Aug. 2, 1983

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 320(8)
- Penal Code, 1860 (IPC) - Section 109, 494

Citation: 86 CWN 1000

Hon'ble Judges: M.K. Mukherjee, J

Bench: Single Bench

Advocate: Pranati Goswami, for the Appellant; Satyajit Mondal and Krishna Ghosh for State, for the Respondent

Final Decision: Allowed

Judgement

Monoj Kumar Mukherjee, J.

Smt. Jyotsna Pal, the opposite party No. 1 in this revisional application filed a complaint against her husband, Sunil Kumar Pal, alleging offence u/s 494 of the Indian Penal Code and against twenty-three others u/s 494/109 of the Indian Penal Code for abetment of the said offence committed by Sunil Pal. During the course of the proceeding, the complainant compromised the case with her husband, Sunil Pal and some of the other accused persons and the learned Magistrate allowed the said compromise and acquitted them u/s 320 (8) of the Code of Criminal Procedure. The other accused persons who were still awaiting trial u/s 494/109 I. P. C. have now moved this Court for quashing the proceeding in view of the compromise effected with Sunil Kumar Pal, who allegedly committed the offence u/s 494 I. P. C. the proceeding cannot be further continued against the petitioners u/s 494 | 109 I. P. C. I find much substance in the contention of the petitioners. Offence u/s 494 I. P. C. can be committed by a husband, who has married for the second time and by no body else, that necessarily means, that once a case is compromised with the husband and

he earns an order of acquittal u/s 320 (8) Cr. P. C. the offence itself for all intents and purpose stands wiped out and consequently there cannot be any scope for abetment of an offence which in the eye of law was not committed at any point of time in view of the acquittal recorded against the husband. For the foregoing discussion, I allow this application and make this Rule absolute. The impugned proceeding is quashed.