

Present:  
Mr. Justice Md. Salim  
And  
Mr. Justice Shahed Nuruddin

**CRIMINAL APPEAL NO.5991 OF 2018.**

Abdul Baset Khan Baccu  
.....Accused-Appellant.

-VERSUS-

The State  
..... Respondent.

Mr. Md. Omar Faruk, Advocate  
.....For the Accused-Appellant.

Mr. B.M. Abdur Rafell, DAG with  
Mr. Binoy Kumar Ghosh, A.A.G.  
Mr. A.T.M. Aminur Rahman (Milon), A.A.G.  
Ms. Lily Rani Saha, A.A.G.  
.....For the State.

**The 18<sup>th</sup> January, 2024.**

**MD. SALIM, J:**

This appeal is directed against the order dated 22.05.2018 passed by the Nari-O-Shishu Nurjatan Daman Tribunal No.5, Dhaka in Nari-O-Shioshu Nirjatan Daman Tribunal Case No.65 of 2018 arising out of Mugda Police Station Case No.04 dated 08.12.2016 so far it relates to DNA re-examination application against the report of Forensic DNA Laboratory Police CID dated 28.12.2017 which is rejected on 22.05.2018, now

pending before the Nari-O-Shishu Nirjatan Daman Tribunal No.5, Dhaka.

Facts in a nutshell to the disposal of the appeal, are that the accused-appellant Abdul Baset Khan Bachu Councilor of Word No.7, Dhaka South City Corporation, Dhaka called the victim Yasmin Rahman Akter to his office for a Salish on 06.12.2017 at 8.00 PM. Accordingly, the victim went there within the time and then the victim was called by the accused-appellant to his southwest room and after closing the door he forcibly raped the victim. Thereafter, the victim was taken to the Dhaka Medical College Hospital by the local people. After examination, the doctor found positive signs of sexual intercourse of recent and forceful.

The case was investigated by the police and during the investigation DNA examination report was prepared by the Forensic DNA Laboratory of Bangladesh Police found the presence of the sperm of the accused-appellant Abdul Baset Khan Bachu. After investigation, police submitted the charge sheet against the accused petitioner under section 9(1) of the Nari-O-Shishu Nirjatan Daman Ain.

Thereafter the case record was transmitted to the Nari-O-Shishu Nirjatan Daman Tribunal, No.5, Dhaka for trial wherein the case was registered as Nari-O-Shishu Nitjatan Daman Tribunal Case No.65 of 2018. During the pendency of the case, the accused-appellant filed an application before the Nari-O-Shishu Nirjatan Daman Tribunal for DNA re-examination by the Dhaka Medical College Forensic Department or any other place canceling the DNA report submitted by Forensic DNA Laboratory at Bangladesh Police vide Memo No.17.00498 / 1 dated 28.12.2017. The learned Judge, Nari-O-Shishu Nirjatan Daman Tribunal No.5, Dhaka by the order dated 22.05.2018 rejected the said application.

Being aggrieved by and dissatisfied with the above, the accused-appellant preferred this appeal before this Division and a Division Bench of this Court by an order dated 17.04.2019 admitted the appeal and stayed the order dated 22.05.2018 rejection of the DNA re-examination Report.

We have heard the learned advocate for respective parties, perused impugned order, and other materials on the record. It manifests that after the occurrence the victim was taken to the Dhaka Medical College Hospital and after examination, the doctor found positive signs of recent forceful rape and in the DNA examination report prepared by the Forensic DNA Laboratory of Bangladesh Police found the presence of the sperm of the accused-appellant. Accordingly, the charge sheet was submitted by the police against the accused-appellant under section 9(1) of the Nari-O-Shishu Nirjatan Daman Ain.

It also reveals from the record that this court by an order dated 09.08.2018 directed the Director of the Dhaka Medical College Hospital to examine the DNA of the victim and the accused-appellant and to submit the report. However, it also appears from the office note 06.01.2019 that a DNA re-examination report prepared under the signature of the Head of the National Forensic DNA Profiling Laboratory, Dhaka Medical College has been accepted by this court.

Taking into consideration as above, we are of the view that as the purpose of this Criminal Appeal is resolved the appeal should be disposed of.

Accordingly, the appeal is disposed of. The order of stay granted by this court is hereby vacated.

Let the order of this Court along with a copy of the DNA report be sent to the tribunal below at once.

**SHAHED NURUDDIN, J:**

I agree

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