

Bench

Mr. Justice Bhishmadev Chakrabortty

And

Mr. Justice A.K.M. Zahirul Haq

Criminal Miscellaneous Case No. 27692 of 2018

Mst. Kalpana Akter petitioner

-Versus-

The State and another opposite parties

No one appears for the petitioner

Mr. Sujit Sengupta, Advocate

..... for added opposite party 4

Judgment on 11.12.2024

Bhishmadev Chakrabortty, J:

This Rule was issued calling upon the opposite parties to show cause as to why order of the Nari-o-Shishu Nirjatan Daman Tribunal, Kishoregonj passed on 23.08.2017 in Nari-o-Shishu Nirjatan Daman Tribunal Case No.496 of 2017 arising out of Kishoregonj Police Station Case No.12(2) of 2017 corresponding to GR Case No.66(2) of 2017 under sections 9(1) and 30 of the Nari-o-Shishu Nirjatan Daman Ain, 2000 (the Ain, 2000) discharging the accused-opposite parties 1-2 from the case should not be quashed and/or such other or further order or orders passed to this Court may seem fit and proper.

No one appears for the petitioner although the matter has been appearing in the daily cause list for a couple of days with the name of the learned Advocate for the petitioner.

Mr. Sujit Sengupta, learned Advocate for added opposite party 4 submits that this opposite party is accused 1 in the first information report (FIR). Due to the order of stay all further proceedings of the case passed by this Court he could not file any application for bail before the concerned Tribunal. In the premises above, he prays for disposing the Rule and vacating the order of stay passed by this Court.

We have considered the submissions of the learned Advocate for added opposite party 4, gone through the rule petition and the documents appended thereto. It transpires that the informant as petitioner approached this Court against the order of discharging opposite parties 1 and 2 herein from the case who were accused 3 and 4 in the FIR respectively. On going through the FIR, statements of the victim recorded under section 22 of the Ain, 2000 and the confession of accused 1 named in the FIR Shohag alias Kabiraj Saiful Islam, we do not find any specific allegation of committing rape or abetting the offence against accused 3 and 4 named in the FIR who are opposite parties 1 and 2 herein although police submitted charge sheet against them. We do not find that any offence of abetment under section 30 of the Ain, 2000 has been disclosed against opposite parties 1 and 2. Learned Judge of the

Tribunal on correct appreciation of fact and law discharged them which calls for no interference under inherent jurisdiction of this Court. Moreover, the order of discharging opposite parties 1 and 2 has been passed by a Nari-o-Shishu Nirjatan Daman Tribunal which could have been challenged by the informant by filing an appeal before this Court under section 28 of the Ain, 2000. But without doing so, the informant filed this application under section 561A of the Code of Criminal Procedure which is found also not maintainable.

In view of the aforesaid premises, we find no substance in this Rule on merit as well as on maintainability. Accordingly, the Rule is discharged. The order of stay stands vacated. The impugned order dated 23.08.2017 passed by the Tribunal is upheld. The case will proceed against accused 1 and 2 named in the FIR accordingly.

However, the Tribunal is directed to dispose of the case expeditiously.

Communicate this judgment and order to the concerned Tribunal.

A.K.M. Zahirul Huq, J:

I agree.