

Present:
Mr. Justice Md. Ataur Rahman Khan

Criminal Appeal No. 1429 of 2021

S.M Imtiaz Hasan

....Convict- Appellant.

-Versus-

The State and another

.....Respondents.

Mr. Md. Asif Imran Zeesan, Advocate

..... For the appellant.

Mr. Shahab Uddin, Advocate

..... For the respondent No.2

Mr. S.M Fazlul Hque, D.A.G

Mrs. Anjuman Ara Begum, with

Mr. Miah Sirajul Islam, AAGs

..... For the State.

Heard On: 29.08.2023, 11.10.2023.

And

Judgment on: 31.10.2023.

Md. Ataur Rahman Khan, J:

This Criminal Appeal, at the instance of convict appellant, S.M Imtiaz Hasan, is directed against the Judgment and order of conviction and sentence dated 24.01.2021 passed by the Nari-O- Shisu Nirjatan Daman Tribunal No. 8, Dhaka, in Nari-O- Shisu Nirjatan Daman Case No. 235 of 2019 arising out

Nari-O- Shishu Petition Case No. 41 of 2019 convicted the convict appellant under Section 11(Ga) of the Nari-O-Shishu Nirjatan Daman Ain, 2000 and sentenced him to suffer rigorous imprisonment for 02 (two) years and also to pay a fine of Tk. 1,00,000/- (one lac) in default to suffer simple imprisonment for further period of 03 (three) months.

The prosecution case, in brief, is that the appellant and the complainant got married on 19.11.2010 and while the complainant got conceived the appellant forced her to miscarriage. The appellant demanded dowry of Tk.20,00,000/- (twenty lac) for the purpose of going to Canada. On 10.05.2019 at about the appellant told the complainant that all the process for going to Canada is completed and then he demanded taka 20,00,000/- (twenty lac) dowry from the complainant. The complainant refused to pay such money, when the appellant tortured her with iron rod. The complainant was rescued by the witnesses and admitted into Hospital. Subsequently,

the complainant at first went to the police station, who refused to register the case thereafter the instance case was filed.

After receiving complaint and examining the complainant, the learned Judge of Nari-O- Shishu Nirjatan Daman Tribunal No. 8, Dhaka directed for a judicial inquiry by the learned Chief Metropolitan Magistrate Dhaka or any of his subordinate Magistrates and also directed to submit the inquiry report. The tribunal taken cognizance against the convict appellant and issued warrant for arrest.

Eventually, the case was transferred in the court of Special Tribunal No.8, Dhaka for trial which was registered as Nari-O-Shihsu Nirjatan Daman Case No. 235 of 2019, who on the basis of materials available on records, framed charges against the convict appellant S.M Imtiaz Hosan under section under section 11(Ga) of the Nari-o-Shishu Nirjatan Daman Ain, 2000.

The learned Special Tribunal No.8, Dhaka on consideration of the evidence on record, as well as facts and circumstances of the case, however found the convict appellant S.M Imtiaz Hosan guilty under section under section 11(Ga) of the Nari-o-Shishu Nirjatan Daman Ain, 2000 guilty for the offence charged under section 11(Ga) of the Nari-o-Shishu Nirjatan Daman Ain, 2000 and sentenced him to suffer rigorous imprisonment for 02 (two) years and also to pay fine of Tk. 1,00,000/- (one lac) in default to suffer simple imprisonment for further period of 03 (three) months.

Being aggrieved by and dissatisfied with the Judgment and order of conviction and sentence dated 24.01.2021 passed by the Nari-O- Shisu Nirjatan Daman Tribunal No. 8, Dhaka, in Nari-O- Shisu Nirjatan Daman Case No. 235 of 2019 arising out Nari-O- Shishu Petition Case No. 41 of 2019 the convict appellant has come up with the present appeal which is opposed by the respondent State through the

Deputy Attorney General and the learned Assistant Attorney Generals Mrs. Anjuman Ara Begum and Mr. Miah Sirajul Islam.

The learned Advocates on behalf of both sides filed an application for compromise and both the parties on condition that the complainant received Tk.8,00,000/- (eight lac) from the convict appellant and the complainant admitted that there is no relation between the husband and wife. They also admitted out of the court that the convict appellant and the complainant has been successfully completed the compromise petition. The complainant came before the court and voluntarily admitted she received Tk. 8,00,000/- from the convict appellant and admit that there is no charge against the convict appellant on the basis of compromise petition.

Mr. S.M Fazlul Haque, the learned Deputy Attorney Genreal and Mrs. Anjuman Ara Begum and Mr. Miah Sirajul Islam, the learned Assistant Attorney Generals, appearing on behalf of the responded State,

submit that the learned advocates of the both sides filed an application for compromise petition out of the court and on the basis of the compromise application the complainant received Tk.8,00,000/- (eight lac) from the convict appellant and the complainant admitted that there is no relation between the husband and wife. Accordingly, they submit that the present appeal may be disposed of for ends of justice.

Heard the learned advocates of both sides and admission of the complainant, perused the memo of appeal, material on records, including the deposition of the witnesses and other material referred to above. It appears from the records that they filed an application for compromise out of the court. The complainant has been received Tk.8,00,000/- from the convict appellant on the basis of the compromise petition as such there is no relations between them as husband and wife.

In view of the above facts and circumstances of the case, the convict appellant has already paid Tk.

8,00,000/- out of the court and as such both the parties are admit their submission on the basis of the compromise petition as mentioned above for this reason, the compromise petition filed by the convict appellant and complainant is hereby disposed of.

In the result, the Criminal Appeal No.1429 of 2021 is hereby allowed with observation.

The Judgment and order of conviction and sentence dated 24.01.2021 passed by the Nari-O-Shisu Nirjatan Daman Tribunal No. 8, Dhaka, in Nari-O- Shisu Nirjatan Daman Case No. 235 of 2019 arising out Nari-O- Shishu Petition Case No. 41 of 2019 convicted the convict appellant under Section 11(Ga) of the Nari-O-Shishu Nirjatan Daman Ain, 2000 and sentenced him to suffer rigorous imprisonment for 02 (two) years and also to pay a fine of Tk. 1,00,000/- (one lac) in default to suffer simple imprisonment for further period of 03 (three) months is hereby disposed of.

Accordingly, the convict appellant S.M Imtiaz Hasan be acquitted from the charge leveled against him.

Send down the L. C. records along with a copy of this Judgment to the Court concerned immediately for information and necessary action.

A.B.O/Monir