

Present:
Mr. Justice Md. Rezaul Haque
And
Mr. Justice Emrul Kayesh
Criminal Misc. Case No. 5811 of
2022
Rojina Akter
...Petitioner.
-Versus-
The State and another
...Opposite party.
Mr. Syeda Nasrin
...For the petitioner.
Mr. S.M. Shahjahan
..For the opposite party.
Heard and Judgment on 01.06.2023.

Md. Rezaul Haque,J.

In an applications under section 526 of the Code of Criminal Procedure Rule was issued calling upon the opposite party to show cause as to why the transfer of Nari-O-Shishu Case No. 226 of 2021, arising out of Petition Case No. 23 of 2021, under section 11(Ga), 30 of the Nari-O-shishu Nirjatan Daman Ain, 2000, now pending in the Court of Nari-O-Shishu Nirjatan Daman Tribunal, Pautakhali, should not be transferred and/or pass such other or further order or orders as to this Court may seem fit and proper.

The prosecution case, in short, is that the complainant petitioner filed a complaint before the Nari-O-Shishu Nirjatan Daman Tribunal, Patuakhali, alleging, inter-alia that she was married with the accused Md. Mamun

Molla who is a police constable, now working in Patuakhali Circle, they have two children in the marriage; after marriage with the petitioner he started to abuse her for money and created pressure to bring money from the parents of the petitioner and for the sake of peaceful marital life, she was constrained to bring money from her parents. When they started to live in Patuakhali after his transfer in Patuakhali police lines, the parents of the petitioner was compelled to buy Television, fridge and other furniture for the new home. But within a few days the accused again started to demand of Tk. 2,00,000/- for buying a Motor cycle. Having no other alternative the father and brother of the petitioner was compelled to give the said amount of money; but this did not quench the thirst for money of the accused and again he started to abuse the petitioner and this time for 5 lac taka, otherwise he would divorce the petitioner. On the day of the incident on 19.11.2020 the accused opposite party No.2 started to abuse the petitioner to bring 5 lacs taka from her parents and continuously punched and kicked on her face making her seriously injured. He also hit the petitioner with large stick made of wood for which the petitioner got senseless. The accused left her in the house locking the door. When the petitioner got to senses at about 12 a.m. at night, she called her brother, who came called the neighbours of the petitioner

and the said neighbours rescued her and gave primary medication; as the petitioner did not get well her father and brother came to see her in the next day on 20.11.2020. the accused opposite party No.2 again hit the petitioner in front of her father and brother. Thereafter the father and brother of the petitioner took her to Patuakhali Hospital where she was admitted till 25.11.2020 and thereafter she was taken to Barishal for better treatment. In the aforesaid circumstances, finding no other alternative, the petitioner filed a written ejahar in the Patuakhali police station which was not taken into consideration. Then she was sent to the Circle SP of the Patuakhali but with no effect; as the accused is a police constable in Patuakhali police station, the police did not file a case against him and hence the petitioner was constrained to file a complaint before the Nari-O-Shishu Nirjatan Daman Tribunal, Patuakhali, hence the case.

Thereafter the learned Tribunal took the statement of the petitioner and sent the matter for investigation to police Bureau of Investigation (PBI), Patuakhali, PBI investigated the matter thoroughly and submitted its report finding that the against the opposite party No2 to be true.

Thereafter the learned Nari-O-Shishu Nirjatan Daman Tribunal, Patuakhali took cognizance of the case on the basis of the said investigation report. Thereafter the accused

opposite party prayed for bail. Thereafter charge was framed against the opposite party No.2.

In the case the complainant being petitioner filed applications for transfer of the case stating that the accused opposite party has been disturbing in the administration of justice from the initiation of the proceedings by utilizing his post of a police constable and if the case is not transferred to any other district adjacent to Patuakhali, the complainant accused petitioner will not get Justice.

Ms. Syeda Nasrin, the learned Advocate appearing on behalf of the petitioner has submitted that the accused opposite party has been hindering the administration of justice from the initiation of the proceedings by utilizing his post of a police constable, so, the complainant petitioner is apprehending that she would not get Justice at Patuakhali.

On the other hand Mr. S.M. Shahjahan, the learned Advocate appearing on behalf of the opposite party No.2 though opposed the Rule but found it difficult to controvert the submission of the learned Advocate for the petitioner.

Considered the submissions advanced by the learned Advocate of both sides, perused the application and other connected papers.

It is evident from the record that in the instant case the accused opposite party has been disturbing in the administration of justice from the day of initiation of the

proceedings by utilizing his service as a police constable and he has got much influence and administrative power in the Court area and, as such, the accused petitioners reasonably apprehend that if they go to Patuakhali they would be subject to inhuman torture and would be humiliated.

Though rule is that a case must be filed within the jurisdiction of the place of occurrence and admittedly, the place of occurrence has been shown at Pauthakali and the complainant has instituted the case in a proper court, on the other hand, it should be considered whether the accused person could get proper legal assistance, to defend them. But in this case we have got that these petitioners are not safe at Patuakhali. Accordingly, in our view the case should be transferred from Patuakhali to Jhalokati for ends of justice.

Accordingly, the Rule is made absolute, Nari-O-shishu Case No. 226 of 2021, is hereby withdrawn from the court of Nari-O-Shishu Nirjatan Daman Tribunal, Patuakhali and the same is transferred to the Court of Nari-O-Shishu Nirjatan Daman Tribunal, Jhalokati, for trial.

The learned Judge of the Nari-O-Shishu Nirjatan Daman Tribunal, Patuakhali, is directed to communicate the case record to the court of Nari-O-Shishu Nirjatan Tribunal, Jhalokati, within 7(seven) days from the date of receipt of the order without jail.

The learned judge of the Nari-O-Shishu Nirjatan Daman Tribunal, Jhalakati, is also directed to proceed with the case immediately after receipt of the same, as per law.

The order of stay granted at the time of issuance of rule is hereby recalled and vacated.

Communicate this order at once.

Emrul Kayesh,J:

I agree.