

In The Supreme Court of Bangladesh
High Court Division
(Criminal Miscellaneous Jurisdiction)

PRESENT:

**MR. JUSTICE ABU TAHER MD. SAIFUR RAHMAN
AND
MR. JUSTICE KHANDAKER DILIRUZZAMAN**

CRIMINAL MISCELLANEOUS CASE NO. 35422 OF 2015

Shovan Kumar Das alias Rajon.....Accused petitioner

-Versus-

The StateOpposite party

None appears.....For the petitioner

Ms. Rezia Sultana, Advocate

.....For the opposite party No. 2

Mr. Imran Ahmed Bhuiyan, DAG with

Mr. Mehadi Hasan (Milon), AAG and

Ms. Aleya Khandker, AAG

.....For the state

Heard on: 02.08.2023

Judgment on: The 6th of August, 2023

ABU TAHER MD. SAIFUR RAHMAN, J.

This Rule was issued on an application filed by the accused petitioner under section 561A of the Code of Criminal Procedure, 1898 calling upon the opposite parties to show cause as to why the impugned order dated 08.04.2015 passed in Nari-O-Shishu Nirjatan Daman Case No. 07 of 2015, arising out of Ganderia Police Station Case No. 28 dated 22.08.2014 under section 11(Ka)/30 of the Nari-O-Shishu Nirjatan Daman Ain, 2000, framing of charge under section 11(Ka) of the Nari-O-Shishu Nirjatan Daman

Ain, 2000 against the accused-petitioner now pending in the Court of learned Nari-O-Shishu Nirjatan Daman Tribunal No. 3, Dhaka should not be quashed and/or such other or further order or orders passed as to this Court may seem fit and proper.

At the time of issuance of the Rule, the Court was pleased to stay all further proceeding of the aforesaid Nari-O-Shishu Nirjatan Daman Case No. 07 of 2015 for **6 (six)** months which was time to time extended by the Court.

For disposal of the Rule, the relevant facts may briefly be stated as follows:

That the opposite party No. 2 as an informant lodged an FIR with the local police station alleging inter alia that his daughter Mamata Rani Paul alias Tumpa was married with the accused petitioner on 01.05.2014 and just after 2 (two) months her husband the accused petitioner started ill treatment with his daughter for dowry. On the date of occurrence dated 22.08.2014 his daughter made a phone to him and thereby requested him to take her away from her house as being she was heavily tortured by her husband along with his other family members for dowry, otherwise they would kill her. Thereafter, the informant went to the house of his daughter and found her dead body in the house of the accused petitioner. On being asked, they informed him that she has committed suicide. Hence, the aforesaid case

was filed against the accused petitioner and others under section 11(Ka)/30 of the Nari-O-Shishu Nirjatan Daman Ain, 2000. After that the accused petitioner was arrested by the police on the same day and subsequently he made a confessional statement before the Magistrate on 10.10.2014. After investigation police submitted a charge sheet against the accused petitioner under section 11(Ka) of the Nari-O-Shishu Nirjatan Daman Ain, 2000. After that the charge was framed against the accused petitioner on 08.04.2015 under section 11(Ka) of the Nari-O-Shishu Nirjatan Daman Ain, 2000. Being aggrieved, the accused petitioner preferred this application before this Court under section 561A of the Code of Criminal Procedure for quashing the impugned order dated 08.04.2015 and obtained the instant Rule and stay.

None appears for the accused petitioner to support the Rule.

However, the accused petitioner has stated in his application that there is no specific allegation of date, time and place as to when the accused petitioner demanded dowry from the victim and as such the order of framing charge against the accused petitioner is liable to be quashed.

Mr. Imran Ahmed Bhuiyan, the learned Deputy Attorney General for the state submits that in the instant case there is a specific allegation against the accused petitioner. Moreover, the accused petitioner has also made a

confessional statement before the learned Magistrate and as such the instant Rule is liable to be discharged.

Ms. Rezia Sultana, the learned Advocate for the opposite party No. 2 concedes with the submissions of the the learned Deputy Attorney General for the state.

Heard the submissions of the learned Advocate for the opposite parties and perused the materials on record thoroughly.

On perusal of the petitioner's application it transpires that the impugned order is appealable order and without preferring an appeal the accused petitioner filed the instant application before this Court under section 561A of the Code of Criminal Procedure which is not maintainable.

We have to keep in mind that the jurisdiction under section 561A is of an extraordinary nature intended to be used only in extraordinary cases where there is no other remedy available and cannot be utilized when there is other express remedy provided in the statute.

Since, the impugned order is appealable order the instant application is not maintainable. We have further noticed that in the instant case, the accused petitioner has also made a confessional statement under section 164 of the Code of Criminal Procedure.

Under the given facts and circumstances of the case and the reasons as stated above, we do not find any substance of this Rule.

As a result, the Rule is discharged.

The order of stay granted earlier by this Court is hereby stand vacated.

The trial Court is hereby directed to proceed with the case expeditiously in accordance with law.

Communicate this judgment and order at once.

Khandaker Diliruzzaman, J:

I agree