

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

PRESENT:

**MR. JUSTICE ABU TAHER MD. SAIFUR RAHMAN
AND
MR. JUSTICE MD. BASHIR ULLAH**

CRIMINAL MISCELLANEOUS CASE NO. 69291 OF 2023

Toslina.....Informant-petitioner

-Versus-

The State and others.....Opposite parties

Mr. Mohammad Sajjadur Rahman, Advocate

.....For the informant petitioner

Ms. Nigar Sultana, Advocate

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

Mr. K.M. Masud Romy, DAG with

Mr. Mehadi Hasan (Milon), AAG and

Ms. Aleya Khandker, AAG

.....For the state

Heard on: 24.01.2024 and 05.02.2024

Judgment on: The 28th of February, 2024

ABU TAHER MD. SAIFUR RAHMAN, J.

This Rule was issued on an application filed by the accused-petitioner under section 561-A of the Code of Criminal Procedure calling upon the opposite parties to show cause as to why the judgment and order of acquittal dated 29.10.2019 passed by the learned Bicharak (Sessions Judge) Nari-O-Shishu Nirjatan Daman Tribunal No. 1, Chattogram in Nari-O-Shishu Case No. 1413 of 2014, arising out of G.R. Case No. 274

of 2014, corresponding to Bashkhali Police Station Case No. 26 dated 27.09.2014 under sections 10 and 30 of the Nari-O-Shishu Nirjatan Daman Ain, 2000 (as amended in-2003) should not be set aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

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

That one Toslima as an informant lodged an FIR with the local police station alleging inter alia that all the FIR named accused persons are close relatives of each other and known as very bad persons in her locality. On the date of occurrence dated 26.09.2014 at around 7.00 a.m. the accused No. 1 came to the police of occurrence while she was bathing on the bank of the pond used by both parties and made sexually harassing remarks against her will. Thereafter she forbade him not to speak such words and shouted loudly. The witnesses came running to the spot and witnessed the incident. Hence, the aforesaid case was filed against them under section 10/30 of the Nari-O-Shishu Nirjatan Daman Ain, 2000. Thereafter all the accused appeared before the Court below and obtained bail. After investigation police

submitted a charge sheet against them under section 10/30 of the Nari-O-Shishu Nirjatan Daman Ain, 2000. After the conclusion of the evidence, the learned Tribunal acquitted all the accused. Being aggrieved, the informant petitioner preferred this application before this Court under section 561A of the Code of Criminal Procedure for quashing the impugned judgment and order of acquittal dated 29.10.2019 and obtained the instant Rule and stay.

Mr. Mohammad Sajjadur Rahman, the learned Advocate for the accused petitioner submits that the learned Tribunal without considering the FIR, charge sheet, and the deposition of P.W. 1 to P.W.5 passed the impugned judgment and order of acquittal which is liable to be set aside.

Ms. Nigar Sultana, the learned Advocate for the opposite party No. 2 submits that on perusal of the materials on record, the learned Tribunal passed the impugned judgment and order of acquittal which does not call for any interference by this Court under the jurisdiction of section 561A of the Code of Criminal Procedure and as such the instant Rule is liable to be discharged.

Heard the submissions of the learned Advocates of both sides and perused the impugned judgment and order along with other materials on record thoroughly.

On perusal of the relevant FIR, charge sheet, and the impugned judgment it transpires that this is a case of no evidence and as such the learned Tribunal rightly passed the impugned judgment and order of acquittal which does not call for any interference by this Court under the jurisdiction of section 561A 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.

Communicate this judgment and order at once.

Md. Bashir Ullah, J:

I agree