

In the Supreme Court of Bangladesh
High Court Division
(Criminal Revisional Jurisdiction)

Present:

Mr. Justice Ashish Ranjan Das

And

Mr. Justice Md. Riaz Uddin Khan

Criminal Revision No. 4888 of 2022

In the matter of:

An application under Section 439 read with
section 435 of the Code of Criminal
Procedure

In the matter of:

Md. Wahad Mia

---Informant-Petitioner

-VERSUS-

Md. Abdul Majid and others

--- Opposite Parties

No one

--For the Informant-Petitioner

Mr. Mohammad Sajjadur Rahman, Adv.

..... For the Opposite Party Nos.1-2

Mr. S.M. Asraful Hoque, D.A.G with

Mr. Sheikh Serajul Islam Seraj, D.A.G

Ms. Fatema Rashid, A.A.G

Mr. Md. Shafiquzzaman, A.A.G. and

Mr. Md. Akber Hossain, A.A.G

-----For the State

Heard and Judgment on 13.11.2023

Md. Riaz Uddin Khan, J:

Rule was issued on an application filed under
Section 439 read with section 435 of the Code of
Criminal Procedure calling upon the opposite
parties to show cause as to why the order dated
14.10.2021 passed by the Nari-0-Shishu Nirjatan
Daman Tribunal No. 01, Dhaka in Nari-0-Shishu Case
No. 71 of 2021 arising out of Wari Police Station
Case No. 03 dated 06.09.2020 under sections

4(2)(Kha)/30 of the Nari-O-Shishu Nirjatan Daman Ain, 2000 rejecting the application of Naraji against the Police Report and dismissing the case should not be set aside and/or such other or further order or orders be passed as to this Court deem fit and appropriate.

The brief facts for disposal of the Rule is that one Md. Wahad Mia being the informant lodged the instant case alleging inter alia that his daughter Sajiba Akter aged about 11 years used to work in the house of Abdul Majid and his wife Salma Majid, accused No.1 and 2. For last 2 ½ years he could not communicate with his daughter and the accused used to say that his daughter was fine. On 04.09.2020 at about 00.05 hours the accused No. 2 informed the informant through mobile phone that his daughter went away from her house. On this information the informant went to the house of the accused and asked about his daughter but they could not give any satisfactory answer. On 06.09.2020 at about 10.30 he received a phone call from Wari Thana Police and he went there and found his daughter having some injury on the body with an unknown lady; on asking his daughter said that the accused persons caused those injuries with the corrosive substances and also informed that on 04.09.2020 the accused beat her for which she went away from the house.

Thereafter, she was found by one Laboni Akter on the road who took her into her house and then produced her in the Wari Police Station. He alleged that the accused persons tortured his daughter causing her physical and mental disorder. On this allegation the FIR was lodged.

Police took up the matter for investigation and after investigation submitted the report in the form of final report on the finding that no offence was committed under Nari-O-Shishu Nirjatan Daman Ain, 2000 rather offence of 323 of Penal Code has been prima facie proved against accused opposite party No. 02, Salma Majid.

The informant filed a Naraji petition against the police report and the Tribunal after hearing the informant and his lawyer by the impugned order rejected the Naraji petition and accepted the police report dismissing the case.

Being aggrieved by the impugned order the informant filed the instant application before this Court and obtained the Rule.

No one appears to press the Rule when the matter was taken up for hearing though it was appearing in the list for several dates with the names of the advocates.

On the other hand Mr. Mohammad Sajjadur Rahman, the learned advocate appearing on behalf of the opposite party Nos. 1 and 2 submits that this

application is not maintainable as there is specific provision of appeal under Nari-O-Shishu Nirjatan Damon Ain, 2000.

He then submits that the instant criminal revision under section 439 read with section 435 is not maintainable as it is also barred by limitation.

He lastly submits that the alleged victim made statement before the Magistrate under section 22 of the Nari-O-Shishu Nirjatan Damon Ain, 2000 wherein she clearly stated that the accused persons never tortured or beat her. In such circumstances the Tribunal rightly rejected the Naraji application and accepted the police report filed by the investigating officer.

We have heard the learned Advocate, perused the application along with the annexures. On going through the materials on record available before us it appears that the alleged victim categorically stated in his statement under section 22 of the Nari-O-Shishu Nirjatan Damon Ain, 2000 that-

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It appears from police report that the Investigating Officer could not find any offence under the Nari-o-Shishu Nirjatan Damon Ain.

According to section 28 of the Nari-o-Shishu Nirjatan Damon Ain, 2000 (hereinafter referred to as the Ain, 2000) any party aggrieved by any order, judgment or sentence passed by the Tribunal may prefer appeal before the High Court Division within 60 days of the date of passing the said order or judgment or sentence. There is no doubt that the Nari-o-Shishu Nirjatan Damon Ain, 2000 is a special law having special limitation and procedure and Code of Criminal Procedure is applicable only where there is no specific provision in the Ain, 2000. In that view of the legal position the informant being aggrieved by the impugned order of the Tribunal could file appeal before this Court. So, the instant criminal revision is not maintainable. Moreover, this criminal revision has been filed beyond the limitation of 60 days and in the entire revisional application no explanation has been given for such delay and no prayer is sought for condoning such delay.

Be that as it may, just after the alleged occurrence the victim in her statements before the learned Magistrate under section 22 of the Ain, 2000 did not bring any allegation of torture which

comes under any offence under the Ain, 2000 and the police report also says that there is no elements of offence under the Ain, 2000. In such circumstances the Tribunal rightly rejected the naraji petition and accepted the police report dismissing the case. We find that the instant criminal revision is not maintainable and there is also no merit in the case for which we are constrained to discharge the rule.

In the result, the Rule is **discharged**.

Communicate the Judgment and order at once.

Ashish Ranjan Das, J:

I agree.