

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

Present:

Mr. Justice Md. Khairul Alam
and
Mr. Justice A.K.M Rabiul Hassan

Criminal Miscellaneous Case No. 29329 of 2024

Md. Didarul Alam Chowdhury
.....Petitioner

-Versus-

The State and another

..... Opposite parties
Mr. Fefoz Uddin Ahmed, Advocate
..... For the petitioner
Mr. Bikash Chandra Saha, Advocate
..... For the opposite party No.02

Heard on: 28.06.2026 and
Judgment on: 02.072026.

Md. Khairul Alam, J:

By this Rule issued under section 561A of the Code of Criminal Procedure, 1898, the accused petitioner seeks to quash the proceedings of Nari-O-Shshu Case No. 92 of 2023 arising out of Petition Case No. 12 of 2023 dated 15.02.2023 under section 11(Ga) of the Nari-O-Shishu Nirjatan Daman Ain, 2000 (As amended on 2003) now pending before the Court of Nari-O-Shishu Nirjatan Daman Tribunal No.2, Dhaka.

Relevant facts for disposal of the Rule are that the present opposite party no. 2, Marefatun Nessa, as complainant, filed a

petition of complaint before the Court of the learned Nari-O-Shishu Nirjatan Daman Tribunal No.2, Dhaka, implicating the petitioner.

Police Took up in investigation of the case and on conclusion thereof, submitted charge sheet on 30.10.2023 Against the accused respondents under section 11(Ga) of the Nari-O-Shishu Nirjatan Daman Ain, 2000 (As amended on 2003).

The case record was transmitted to the Court of the learned Judge, Nari-O-Shishu Nijatan Daman Tribunal, Dhaka and was registered was Nari-O-Shishu Nirjatan Case No. 92 of 2023.

After that, the accused respondent filed an application for discharging them under section 265 (c) of the Code of Criminal Procedure. The learned Judge of the Tribunal after hearing parties by and order 15.02.2023 rejected the said application and framed charge against the accused-respondents under section 11(Ga) of the Nari-O-Shishu Nirjatan Daman Ain, 2000 (As amended on 2003).

Being aggrieved by and dissatisfied with the aforesaid order of rejection, the accused-respondents as the appellants preferred Criminal Appeal No. 584 of 2011 before the High Court Division. The learned Judges of the High Court Division upon

hearing the parties by its judgment and order dated 06.04.2011 allowed the Appeal setting aside the order passed by the learned Judge, Nari-O-Shishu Nirjatan Daman Tribunal No.2, Dhaka.

Feeling aggrieved by and dissatisfied with the judgment and order passed by the High Court Division, the leave petitioner preferred this criminal petition for leave to appeal before this Division.

Mr. Fefoz Uddin Ahmed, learned Advocate, appearing on behalf of the leave petitioner, submits that the High Court Division illegally allowed the appeal although the learned Judge having considered the provision of section 265 (c) of the Code of Criminal procedure did not discharge the respondents and framed charge against them and as such, the impugned judgment should be set aside.

We have considered the submissions of the learned Advocate, perused the impugned judgment and the materials on record.

The High Court Division came to a finding that admittedly the date of occurrence was on 26.01.2023 which was subsequent to the date of division and that the instant case was filed on 02.02.2023. Therefore, the High Court Division concluded that the order dated 29.01.2023 passed by the learned Judge, Nari-O-Shishu Nirjatan Daman Tribunal No.2, Dhaka, rejecting

the application of the accused for discharge under section 265 (c) of the Code of Criminal Procedure and framing of charge against them should be set aside.

The aforesaid findings and decision of the High Court Division been made on proper appreciation of law and fact do not call for interference. Accordingly, this criminal petition for leave to appeal is dismissed.

In a proceeding under section 561A of the Code, this Court cannot embark upon an enquiry into disputed questions of fact, nor can it assess the truth or falsity of the allegations made in the complaint.

On perusal of the complaint, prima facie, it appears that the complaint discloses the essential ingredients of offences under section 11(Ga) of the Nari-O-Shishu Nirjatan Daman Ain, 2000 (As amended on 2003).

Accordingly, we find no lawful ground to interfere with the impugned proceeding at this preliminary stage.

However, the petitioner shall be at liberty to raise all permissible defences before the trial court in accordance with law.

In view of the foregoing discussions, we find no merit in the Rule.

Accordingly, the Rule is discharged.

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

Let a copy of this judgment and order be communicated at once.

A.K.M Rabiul Hassan, J.

I agree

Kashem, BO