

Present:

Mr. Justice K.M. Kamrul Kader
And
Mr. Justice Shathika Hossain

Criminal Appeal No.1305 of 2025.

Md. Sohel Rana

..... Accused-Appellant

-Versus-

The State and another

Mr. Shibli Nomani, Advocate

....For the Appellant

Mr. Md. Jahangir Alam with

Mrs. Rabaya Islam Adnan, Advocates

.... For the Complainant-respondent No.2

Mr. Prokash Ranjan Biswas, D.A.G with

Mst. Tahera Khatun, and

Mr. Md. Siddik Ali and

Mr. Omar Faruk, A.A.Gs

....For the State.

Heard On: 27.11.2025 And

Judgment On : 15.12.2025.

K.M. Kamrul Kader, J:

This appeal is directed against the order No.09 dated 04.02.2025 passed by the learned Judge of the Nari-O-Shishu Nirjatan Daman Tribunal No.1, Naogaon passed in Nari-O-Shishu Case No.307 of 2024 arising out of Manda Police Station Case No.05 dated 02.05.2024, corresponding to G.R. No.176 of 2024 (Manda:) under section 9(1) of the Nari-O-Shishu Nirjatan Daman Ain, 2000 read with section 313 of the Penal Code, now pending before the learned

Judge of the Nari-O-Shishu Nirjatan Daman Tribunal No.1, Naogaon framing charge against the accused-appellant.

Facts relevant for disposal of this appeal are that on 02.05.2024, one Mst. Tania Akhter as informant lodged a First Information Report to the Officer-in-Charge of Manda Police Station and the same was recorded as Manda Police Station Case No.05 dated 02.05.2024, under section 9(1) of the Nari-O-Shishu Nirjatan Daman Ain, 2000 read with section 313 of the Penal Code.

The prosecution case, in short, is that the informant is the victim Tania, who is a student of B.A. The accused-appellant Md. Sohel Rana used to tease from her school life and on several occasion, he made proposal for love to the victim. Later on, love and affection was building up between them. Thereafter, he raped the victim by seducing her on false pretext that he will marry her. Next, on 15.05.2023 at 9.30 P.M. the accused appellant came to her house and raped her again and on 29.07.2023, the victim tested for pregnancy at LAB Aid Hospital and came to know

that she is pregnant. She informed the accused appellant about her pregnancy, who gave her pill for abortion by saying her pain killer pill, the victim took the pill, which caused miscarriage. The victim has requested the accused-appellant to marry and he made promise to marry her but he had been making lame excuse and buying time. Lastly, on 14.03.2024, he refused to marry her. Hence, the prosecution case.

Sub-Inspector Md. Shamsur Rahman Dawan as investigating officer investigated the case and after conclusion of the investigation and finding *prima facie* case against the accused-appellant, he submitted charge sheet being No.291 dated 31.08.2024 under sections 9(1) of the Nari-O-Shishu Nirjatan Damon Ain, 2000 read with Section 313 of the Penal Code.

Thereafter, the case record was transmitted to the Court of Nari-O-Shishu Nirjatan Daman Tribunal No.1, Naogaon and the same was registered as Nari-O-Shishu Nirjatan Daman Case No. 307 of 2024. The next date was fixed on 19.01.2010 for framing of charge. The accused-appellant filed an application

under section 265C of the Code of Criminal Procedure for discharging the accused-appellant from the charge leveled against him. After hearing the parties, perusing the materials on record learned Judge of the Nari-O-Shishu Nirjatan Daman Tribunal No.1, Naogaon framed charge against the accused-appellant vide his order No.09 dated 04.02.2025, under sections 9(1) of the Nari-O-Shishu Nirjatan Damon Ain, 2000 read with Section 313 of the Penal Code.

Being aggrieved by and dissatisfied with the impugned order being No.09 dated 04.02.2025 passed by the learned Judge of the Nari-O-Shishu Nirjatan Daman Tribunal No.1, Naogaon the accused as appellant filed the instant appeal before this Court and obtained an order of stay.

Mr. Shibli Nomani, learned Advocate appearing for the appellant after taken us through the petition of appeal and other materials on record, submits that the learned Judge of the Tribunal without considering the facts and circumstances of the case and without applying his judicial mind most illegally framed charged against the accused-appellant. He also

submits that the date of occurrence was on 15.05.2023 and 29.07.2023 but the F.I.R. was lodged after long laps of one year on 02.05.2024 without assigning any reason or explanation relating to the inordinate delay in filing the F.I.R. He also submits that the respondent No.2 the victim namely Tania got married orally with one Md. Abu Raihan on 12.05.2023 and she divorced her husband on 30.05.2024 and as such, the respondent No.2 victim has a very questionable character. The respondent No.2 with the intention to harass and press the accused appellant, she entangled the appellant in this false and fabricated allegation by misusing the provision of law for her personal and financial gain and as such, the impugned order of framing charge is liable to be set aside. He further submits that the informant also had a miscarriage on 29.07.2023, but she lodged the case in the year of 2024 and as such, the allegation brought against the appellant is questionable, shaky and doubtful and she obtained the certificate relating to the miscarriage through illegal means. He next submits that the victim was not

medically examined, though it is mandatory duty upon the prosecution to examine the victim physically to justify the F.I.R or any complain as per provision of Sections 32 and 32(Ka) of the Nari-O-Shishu Nirjatan Daman Ain, 2000. But the prosecution seriously failed to follow this mandatory provision of the said Ain which make the prosecution case shaky and doubtful. He next submits that there are previous enmities between the parties and the father of the accused-appellant filed a C.R. Case being No.181C of 2012 against the uncle of the accused-appellant and to take revenge the complainant-respondent filed this case on false allegations and as such, the impugned order of framing charge is liable to be set aside. He lastly submits that the victim on 29.07.2023 visited a doctor namely Dr. Mahfuja Khatun for her treatment at Islami Bank Community Hospital, Nagaon Ltd. and the doctor clinically observed her disease namely as "AMENORRHEA" for $1\frac{1}{2}$ months and personally she took M.M. Kit on 15.07.2023 and after all observation doctor prescribed some medicine and advice for some

test but she did not follow the doctor's advice. Dr. Mahfuja Khatun made her statement under section 161 of the Code of Criminal Procedure wherein she stated that she advised her for doing some medical test but she did not pay any heed to follow the doctor's instructions and did not go for any test. The victim has done her pregnancy test at LAB AID private clinic, Naogaon on 28.04.2023 which was before the date of occurrence and thereafter, on 29.07.2023. So, it is crystal clear that she became pregnant during her conjugal life with her husband namely Md. Abu Raihan and as such, he prays for allowed the appeal and discharged the appellant from the charge leveled against him.

To substantiate his submission learned Advocate for the appellant placed reliance to the decisions in the cases of *Md. Moynul Hoque -Vs.- Md. Abdus Satter*, reported in 24 BLD (AD) (2004) 128, *Monwar Mallik - Vs.- The State*, reported in 59 DLR (2007)301, *Kamal Hossain (Md) alias Md. Kamal Pramanik -Vs.- The State*, reported in 61 DLR(2009)505, *Golam Ahmed - Vs.- The State*, reported in 64 DLR(2012)93 and *Najim*

Uddin (Md) -Vs.- The State, reported in 69 DLR(2017)235.

Mr. Md. Jahangir Alam, learned Advocate appearing on behalf of the complainant-respondent No.2 opposes the appeal and submits that since in the FIR disclosed a prima-facie case against the accused-appellant and to that effect, the charge sheet has been submitted by the Investigating Officer and the learned Judge of the Tribunal after considering the materials on record, facts and circumstances of the case framed charge against the accused-appellant under sections 9(1) of the Nari-O-Shishu Nirjatan Damon Ain, 2000 read with Section 313 of the Penal Code and as such, there is no scope for discharging the accused on the basis of defense plea/material at the stage of framing charge. Learned Judge of the Tribunal did not commit any illegality or irregularity in passing the impugned order and on proper consideration of the fact and circumstances and material evidence on record, he rightly rejected the application under section 265C of the Code of Criminal Procedure. There is no illegality or infirmity in the impugned order of framing charge

passed by the learned Judge of the Nari-O-Shishu Nirjatan Daman Tribunal, Naogaon. He then submits that the framing of charge is beginning of a case, the accused-appellant will get ample opportunity to prove his innocence at the time of trial by adducing evidence and as such, this criminal appeal filed by the appellant is liable to be dismissed and as such, he prays for dismissed the appeal.

Mr. Prokash Ranjan Biswas, the learned Deputy Attorney General appearing for the state submits that there is prima facie case against this appellant. There is no illegality or infirmity in the impugned order of framing charge passed by the learned Judge of the Nari-O-Shishu Nirjatan Daman Tribunal, Naogaon and he also prays for dismissed the appeal.

Heard the learned Advocates for both the sides, perused the petition of appeal and other materials on record and gone through the decisions referred by the parties.

It transpires that the Informant-respondent No.2 made an allegation under sections 9(1) of the Nari-O-Shishu Nirjatan Damon Ain, 2000 read with Section

313 of the Penal Code against the accused-appellant. After conclusion of investigation, the police submitted charge-sheet against the appellant. Accordingly, the case was transmitted to the Court of Nari-O-Shishu Nirjaton Damon Tribunal No.1, Naogaon for trial. On the date fixed for framing charge, the appellant filed an application under section 265C of the Code of Criminal Procedure for discharging the appellant from the charge leveled against him, on the ground that the complainant is married to another person namely Abu Raihan and during their wedlock she got pregnant. The documents produced by the complainant so far it's relate to her pregnancy and miscarriage/abortion is not reliable documents at all. However, these are all defense materials as well as disputed question of facts and these defense materials and disputed question of facts can be proved by adducing evidence before the trial court below not at the stage of framing charge.

All that is required at the stage of framing charge is to see whether a *prima facie* case regarding commission of certain offence is made out or not. After perusing the First Information Report, the

statement of the victim and other witnesses, Charge sheet and other materials on record, I find that the prosecution has made out a *prima-facie* case against the accused-appellant. The truth, veracity, effect of evidence which prosecution and defense proposed to adduce at the time of trial is not to be meticulously judged at the stage of framing charge.

In the instant case, the offence punishable under sections 9(1) of the Nari-O-Shishu Nirjatan Damon Ain, 2000 read with Section 313 of the Penal Code has clearly been disclosed. Since there are clear and direct allegations against the accused-appellant which need to be tested by adducing evidence at the time of trial. The appellant has ample opportunity to adduce evidence in his support of his case before the trial court below. Thus, I am of the view that the learned Judge of the Nari-O-Shishu Nirjatan Daman Tribunal No.1, Naogaon did not commit any illegality or infirmity in passing the order of framing charge under sections 9(1) of the Nari-O-Shishu Nirjatan Damon Ain, 2000 read with Section 313 of the Penal Code

against the accused-appellant and as such, I do not find any merit in this appeal.

Accordingly, the Appeal is dismissed. The order of stay granted earlier by this Court at the time of admission of appeal is hereby vacated.

The learned Judge of the Nari-O-Shishu Nirjatan Daman Tribunal No.1, Naogaon, is directed to proceed with the case in accordance with law and dispose of the same as early as possible preferably within 6(six) months from the date of receipt of this order.

Communicate the judgment and order to the Court concern at once.

Shathika Hossain, J:

I agree.