

Present:
Mr. Justice Mohammad Marzi-ul-Huq
and
Mr. Justice Md. Ruhul Quddus

Criminal Appeal No. 2479 of 2006

Mst. Anzura Begum
í Appellant
-Versus-
Sabuz and others
... Respondents

No one appears for either of the parties

Mr. Khizir Hayat, D.A.G.
í for State-respondent No.3

Judgment on 18.1.2012

Md. Ruhul Quddus, J:

This appeal under section 28 of the Nari-o-Shishu Nirjatan Damon Ain, 2000 at the instance of victim-complainant is directed against order dated 24.5.2006 passed by the Nari-o-Shishu Nirjatan Damon Tribunal, Jamalpur in Nari-o-Shishu Nirjatan Damon Tribunal Ejahar No. 221 of 2006 rejecting her petition of complaint summarily.

Facts leading to this appeal, in brief, are that the victim-complainant (herein appellant) filed a petition of complaint before the Nari-o-Shishu Nirjatan Damon Tribunal, Jamalpur on 18.4.2006 bringing allegations of committing rape on her by

accused-respondent Nos. 1 and 2 at night following 12.4.2006. In committing such offence the accused-respondents compelled her by pointing a dagger on her minor son. Consequently she was driven away from her father-in-law's house on the following day. She went to lodge an *ejahar* with the concerned police station, but was refused. Because of the adverse situation and refusal of police to record the *ejahar*, there was delay in filing the petition of complaint.

The victim was examined by the Tribunal and after registering the case, she was examined by a medical board comprising three doctors who submitted a report on 19.4.2006 with a finding that "*no signs of recent forceful sexual intercourse were found on the victim*".

Learned Judge of the Tribunal summarily rejected her petition of complaint by order dated 24.5.2006 on the ground of negative medical report and delay in filing the complaint. Challenging the said order, the victim-complainant moved in this Court with the instant criminal appeal.

This appeal has been appearing in daily cause list for a couple of days with name of the Advocate for appellant. Today it is taken up for hearing, but no one appears to press the appeal.

Mr. Khizir Hayat, learned Deputy Attorney General appearing for the State-respondent does not oppose the appeal, rather he candidly admits that in spite of negative medical report, there are ingredients of offence of rape against the accused-respondents.

We have considered the submission of learned Deputy Attorney General and gone through the materials on record including the petition of complaint and impugned order. There are specific allegations that respondent Nos.1 and 2 entered into the appellant's room at the night of occurrence and committed rape on her one by one against her will pointing dagger on her minor son. She stated the occurrence in same manner, while examined by the Tribunal.

The medical board examined her after six days of the alleged occurrence. After such a long gap, there may not be any signs of rape, but for this reason the door of justice cannot be shut down before a helpless woman. In our social condition, a woman having her husband and son does not raise any false allegation against others, which can stick a stigma on her character.

The victim-complainant, an unfortunate house-wife was driven away from her father-in-law's house on the following day of occurrence and was refused by the police to record an *ejahar*. In such an adverse situation, there might be some delay in filing the complaint. Whether the allegations are true or the delay explained in the petition of complaint is satisfactory and reasonable, all depend on the facts to be revealed after taking evidence in course of trial.

In view of the above, the impugned order rejecting the petition of complaint summarily does not appear to be reasonable and legally sustainable, and as such liable to be set aside.

In the result, the appeal is allowed. The impugned order dated 24.5.2006 passed by the Nari-o-shishu Nirjatan Damon Tribunal, Jamalpur in Nari-o-shishu Nirjatan Damon Tribunal Ejahar No.221 of 2006 is hereby set aside. The Nari-o-shishu Nirjatan Damon Tribunal, Jamalpur is directed to proceed with the case in accordance with law.

Communicate a copy of the judgment.

Mohammad Marzi-ul-Huq, J:

I agree.