

Present:

Mr. Justice Raziuddin Ahmed

Criminal Appeal No.2288 of 2005

Md. Faruk Hawlader

----- Appellant

-Vs-

The State and another

----- Complainant-Respondents

No one appears

----For the Appellant

Mr. Md. Asad Uddin, D.A.G with

Mr. Md. Habibur Rahman Sarker, A.A.G and

Mr. Kazi Mohammad Moniruzzaman, A.A.G

-----For the State

Heard on 30.04.2026, 07.05.2026 and

Judgment on 14.05.2026

This criminal appeal, preferred under section 28 of the Nari-O-Shishu Nirjatan Daman Ain, 2000 is directed against the judgment and order dated 10.05.2005 passed by the learned Nari-O-Shishu Nirjatan Daman Bishesh Tribunal, Pirojpur in Nari-O-Shishu Case No. 83 of 2004, whereby the accused-appellant was convicted under section 10 of the Nari-O-Shishu Nirjatan Daman Ain, 2000 and sentenced to suffer rigorous imprisonment for 3 years and to pay a fine of Tk. 3,000, in default, to suffer rigorous imprisonment for a further period of 3 months.

The prosecution case, in brief, is that the accused-appellant Faruk Sheikh had been harassing the complainant's daughter, Poly Akter, for a considerable period of time. The victim disclosed the matter to her mother, the informant, who thereafter informed the local people about the conduct

of the accused. Being annoyed thereby, the accused allegedly intensified his harassment.

On 18.10.2004, after dinner and Esha prayer, the husband of the complainant went to guard his betel nut garden. The complainant and her daughter Poly were sleeping in their house. Thereafter, at about 10:00 to 10:30 p.m., the complainant went to her husband in the garden with betel leaf. Taking advantage of their absence, the accused entered into the house through the open door and assaulted the victim with intent to outrage her modesty. It is alleged that he forcibly tried to undress her and, in the process, her clothes were torn.

Upon hearing the victim's hue and cry, the complainant and her husband rushed back to the house and found the accused inside the room. The husband of the complainant apprehended the accused at the place of occurrence and tied his hands with a rope. Thereafter, neighbours and local people assembled at the place of occurrence and saw the accused inside the house. Subsequently, some relatives of the accused allegedly tried to take him away. However, with the assistance of the Chowkidar, the complainant took the accused to the police station.

It is further alleged that the mother and relatives of the accused influenced the police, and the police refused to receive the case. The accused was also released from police custody. The complainant thereafter filed the present complaint petition before the Tribunal.

After filing of the complaint petition, the matter was sent to a Magistrate for judicial inquiry. The learned Magistrate recorded the

statements of the witnesses and submitted a report regarding the incident. On the basis of the said report, cognizance was taken against the accused-appellant under section 10 of the Nari-O-Shishu Nirjatan Daman Ain, 2000. Charge was thereafter framed under the said section.

The prosecution examined 9 witnesses in support of its case. The defence examined none.

Upon consideration of the evidence and materials on record, the learned Nari-O-Shishu Nirjatan Daman Bishesh Tribunal, Pirojpur by its judgment and order dated 10.05.2005 convicted the accused-appellant under section 10 of the Nari-O-Shishu Nirjatan Daman Ain, 2000 and sentenced him to suffer rigorous imprisonment for 3 years and to pay a fine of Tk. 3,000, in default, to suffer rigorous imprisonment for a further period of 3 months.

Being aggrieved by and dissatisfied with the judgment and order of conviction and sentence dated 10.05.2005, the accused-appellant preferred the present appeal before this Court, which was admitted on 19.06.2005.

At the time of hearing of the appeal, no one appeared on behalf of the appellant.

Mr. Md. Asad Uddin, learned Deputy Attorney General appearing for the State, submits that the learned Tribunal, upon proper consideration of the evidence and materials on record, rightly convicted the appellant. He further submits that the prosecution witnesses consistently proved the involvement of the accused-appellant in the occurrence and that the prosecution succeeded in proving the charge beyond reasonable doubt. He

therefore prays for dismissal of the appeal and affirmance of the conviction and sentence.

No one appears on behalf of the complainant-respondent at the time of hearing of the appeal.

It appears from the record that the appellant was convicted under section 10 of the Nari-O-Shishu Nirjatan Daman Ain, 2000. The only point for consideration in this appeal is whether the prosecution has been able to prove the charge against the appellant beyond reasonable doubt.

P.W.1, Rejia Begum, the complainant, stated in her deposition that on 18.10.2004 at about 10:00 to 10:30 p.m., her husband was guarding the betel nut garden. When she went to her husband with betel leaf, her daughter was sleeping inside the room. Upon hearing the shouting of her daughter, she and her husband rushed to the house and saw the accused Faruk assaulting her daughter. She stated that the accused had forcibly embraced the victim and torn her clothes with intent to commit sexual assault. Her husband apprehended the accused at the place of occurrence. Upon her shouting, Shahjahan, Haru Majhi and other neighbours came to the house. The local Member and Chowkidar also came there. She further stated that when they went to the police station, the police did not believe their statement and instead detained her husband and daughter. On the following morning, one Bachhu came to the police station and secured their release. Thereafter, she filed the complaint case before the Court.

In cross-examination, P.W.1 admitted that several civil and criminal cases were pending between the family of the informant and the

accused. She also admitted that there was an election-related dispute between them.

P.W.2, Poly Akter, the victim, stated in her deposition that on 18.10.2004 at about 10:00 to 10:30 p.m., the accused Faruk entered into her room while her parents were not present in the house. She stated that the accused forcibly assaulted her and tried to undress her, as a result of which her salwar kameez was torn. She then started shouting. She further stated that the accused had previously harassed her on her way to school and madrasa. Upon hearing her shouting, her parents came to the room and apprehended the accused at the place of occurrence. Her father tied the hands of the accused with a rope, which was seen by the neighbours who came there. She further stated that the parents of the accused tried to settle the matter by offering money, but her parents refused. When they were taking the accused to the police station, relatives of the accused tried to take him away. She further stated that the mother of the accused reached the police station before them and made false allegations against them, whereupon the police detained them instead of taking action against the accused.

P.W.3, Md. Shajahan Sheikh, stated that on 18.10.2004 at about 10:00 to 10:30 p.m., while he was taking dinner, he heard shouting and went to the place of occurrence. He saw many people assembled there and also saw that the hands of accused-Faruk were tied with a rope. He heard from the father of the victim that, taking advantage of the absence of the victim's parents, the accused had entered into the room and assaulted the

victim. He further stated that the mother of the accused managed the police, and the father of the victim along with others were detained but subsequently released with the help of Bachhu.

P.W.4, Hyder Ali Majhi, stated that on the date and time of occurrence he was sitting in a shop near the mosque. Upon hearing shouting, he along with 4 to 5 others went to the house of the complainant and saw the accused-Faruk tied with a rope.

P.W.5, Abul Kalam Sheikh, the village police, stated that on 18.10.2004 at about 10:00 to 10:30 p.m., he was sitting in the house of Hamid Sheikh. Upon hearing hue and cry, he went to the complainant's house and saw the accused-Faruk tied with a rope.

P.Ws.6, 7 and 8 were tendered by the prosecution.

P.W.9, Md. Habibur Rahman, father of the victim, stated that on 18.10.2004 at about 10:00 to 10:30 p.m., he went to guard the betel nut garden and his wife also came there, leaving their daughter Poly asleep in the room. Upon hearing the shouting of his daughter, he rushed to the house and saw accused-Faruk inside the room with his daughter. His daughter informed him that the accused had forcibly assaulted her. He stated that the accused entered into the room with intent to outrage the modesty of the victim and forcibly embraced her, causing her clothes to be torn. Local people came to the house and saw the accused tied with a rope. He further stated that the father of the accused tried to settle the matter by offering money, but they refused. He also stated that the mother of the accused reached the police station before them and influenced the police,

as a result of which they were detained. On the following day, with the help of one Bachhu driver, they were released from police custody.

Upon assessment of the evidence on record, it appears that the occurrence took place on 18.10.2004 at about 10:00 to 10:30 p.m. when the parents of the victim were outside the house. The accused entered into the room where the victim was sleeping and assaulted her with intent to outrage her modesty. The victim immediately raised hue and cry. Upon hearing her shouting, her parents rushed to the room and found the accused at the place of occurrence. The father of the victim apprehended the accused and tied his hands with a rope. Soon thereafter, neighbours and local witnesses came to the place of occurrence and saw the accused in that condition.

The evidence of P.W.2, the victim, is clear, consistent and natural. Her testimony is materially corroborated by P.W.1 and P.W.9, who rushed to the place of occurrence immediately after hearing her shouting and found the accused inside the room. The evidence of P.Ws.3, 4 and 5 also lends support to the prosecution case to the extent that they came to the place of occurrence shortly thereafter and saw the accused tied with a rope.

It is true that P.W.1 admitted in cross-examination that there were previous civil and criminal cases as well as an election-related dispute between the parties. However, mere existence of previous enmity is not sufficient to discard otherwise reliable and consistent evidence. Rather, in the present case, the victim's evidence is direct and is substantially

corroborated by the immediate conduct of her parents and the evidence of the local witnesses who came to the place of occurrence soon after the incident.

The defence did not adduce any evidence. The prosecution evidence remains materially unshaken in cross-examination. The conduct of the victim in raising hue and cry, the immediate arrival of her parents, the apprehension of the accused at the place of occurrence, and the presence of local witnesses soon thereafter are circumstances which strongly support the prosecution version.

In criminal cases, the prosecution is required to prove its case beyond reasonable doubt. In the present case, the evidence of P.W.2, the victim, is trustworthy and inspires confidence. Her testimony is corroborated by P.Ws.1 and 9 on material particulars. The evidence of P.Ws.3, 4 and 5 further supports the presence of the accused at the place of occurrence immediately after the incident. Upon consideration of the evidence and surrounding circumstances, I am of the view that the prosecution has been able to prove the charge against the accused-appellant beyond reasonable doubt.

Accordingly, the conviction of the accused-appellant under section 10 of the Nari-O-Shishu Nirjatan Daman Ain, 2000 calls for no interference and is hereby maintained.

So far as the sentence is concerned, it appears that the complaint was lodged in the year 2004, the judgment of the learned Tribunal was passed in 2005, and the present appeal was also filed in 2005. In the

meantime, about 21 years have elapsed. It further appears from the record that neither the complainant nor the appellant took any effective step for early disposal of the appeal. The appellant has also undergone the agony of criminal proceedings for a long period. It further appears that the appellant has already suffered a substantial period in custody.

Considering the facts and circumstances of the case, the long passage of time, and the period already undergone by the appellant, I am of the view that the ends of justice would be met if the sentence of imprisonment is reduced to the period already undergone.

In the result, the appeal is dismissed with modification of sentence.

The judgment and order of conviction dated 10.05.2005 passed by the learned Nari-O-Shishu Nirjatan Daman Bishesh Tribunal, Pirojpur in Nari-O-Shishu Case No. 83 of 2004 is hereby upheld. However, the sentence of imprisonment imposed upon the accused-appellant is modified and reduced to the period already undergone.

The order of fine shall remain as awarded by the learned Tribunal.

Send down the lower Court records at once.

Communicate this judgment and order to the concerned Court immediately.