

In The Supreme Court of Bangladesh
High Court Division
(Criminal Appellate Jurisdiction)

PRESENT:

MR. JUSTICE MD. SHOHROWARDI
CRIMINAL APPEAL NO. 348 OF 2013.

Most. Sharmin Akter(Rima)

..... Appellant.

-Versus-

The State and others

..... Respondents.

No one appears

.....For the appellant

Mr. Md. Habibur Rahman, Advocate

.....For the respondent Nos. 2 and 3.

Mr. Md. Anichur Rahman Khan, D.A.G with

Mr. Sultan Mahmood Banna, AAG with

Mr. Mir Moniruzzaman, AAG with

....for the State

Heard on 26.05.2025 and 20.08.2025.

Judgment delivered on: 21.08.2025.

MD. Shohrowardi, J.

This appeal is directed challenging the legality and propriety of the impugned judgment and order dated 19.11.2012 passed by the Nari-O-Shishu Nirjatan Daman Tribunal-2, Rajshahi in Nari-O-Shishu Case No. 209 of 2010 arising out of Charghat Police Station Case No. 15 dated 10.06.2010 corresponding G.R. No. 133 of 2010 acquitting

the respondent No. 2 and 3 from the charge framed against them under section 11(ga)/30 of the Nari-O-Shishu Nirjatan Daman Ain, 2000.

The prosecution's case, in short, is that the complainant Most. Sharmin Akter (Rima) is the wife of accused Md. Mizanur Rahman. The accused No. 2 Idris Ali is the father of the accused Md. Mizanur Rahman and accused No. 3 Most. Manowara Begum is the sister of the accused Idris Ali. The marriage of the accused Md. Mizanur Rahman and the complainant was solemnized on 05.02.2009 and thereafter, the complainant was taken to the house of the accused. After few days of their marriage, at the instigation of accused Nos. 2 and 3, the accused Mizanur Rahman started beating the complainant for dowry of Tk. 200,000. On 08.08.2019 at 8.00 am, the accused demanded Tk. 200,000 as dowry to the complainant and when she refused to pay the dowry, at the instruction of the accused Nos. 2 and 3, the accused Md. Mizanur Rahman having beaten her driven her out from his house. She informed the matter to her mother over mobile phone and at 9.00am, her mother along with the witnesses came to the house of the accused. At that time, the accused again demanded Tk. 200,000 as dowry to her mother. When her mother refused to pay the dowry, the accused persons forcibly driven them out from their house. On that day at 10.00am, the victim was admitted to Charchat Upazila Health Complex. After treatment, she came back to her house. The accused asserted to the SP, Natore that in future, he will not repeat the same occurrence and took her to

his house. After few days, on 09.05.2010, in connivance with the accused No. 2 and 3, her husband again demanded dowry of Tk. 200,000 and when she again refused to pay the dowry, her husband forcibly driven her out from his house. He made attempt to make the compromise through the SP, Chapainowabgonj. On 29.05.2010, she went to Charchat Thana to lodge the FIR but the Officer-in-Charge refused to register the case. On 09.05.2010 the claver accused filed a case for dissolution of marriage and took her signature on the blank paper and he lodged the GD No. 1012 on 25.06.2009 at the Charchat Police Station. At the time of filing complaint petition, she submitted the application filed to the SP, Chapainawabgonj, copy of the GD and the discharge certificate. The complainant filed the Complaint Petition No. 821 of 2010 (Charchat) on 31.05.2010. After receipt of the complaint petition, the Officer-in-Charge, Charchat Thana treated the complaint petition as FIR and registered the Complaint Petition as Charchat P.S. Case No. 15 dated 10.06.2010.

P.W. 6 Md. Rashedul Islam, S.I. of Charchat Thana, was appointed as investigating Officer of the case. During investigation, he visited the place of occurrence, prepared the sketch map and index. He proved the sketch map and index as exhibit- 2 and his signature as exhibit- 2. He recorded the statement of witnesses under section 161 of the Code of Criminal Procedure, 1898, collected the medical certificate of the victim. During investigation, he found prima facie truth of the allegation against the accused Md. Mizanur Rahman,

Idris Ali and Most. Manowara Begum and submitted charge sheet on 26.08.2010 against them under section 11(ga)/30 of the Nari-O-Shishu Nirjatan Daman Ain, 2000.

Thereafter, the case record was sent to the Nari-O-Shishu Nirjatan Daman Tribunal, Rajshahi and the case was registered as Nari-O-Shishu Nirjatan Case No. 209 of 2010. The learned Tribunal was pleased to take cognizance of the offence against the accused Md. Mizanur Rahman and Md. Idris Ali by order dated 14.10.2010. On 16.01.2011, the Nari-O-Shishu Nirjatan Daman Tribunal, Chapainawabganj framed charge against the accused Md. Mizanur Rahman under section 11(ga) of the Nari-O-Shishu Nirjatan Daman Ain, 2000(as amended in 2003) and against accused Md. Idris Ali under section 11(ga)/30 of the said Act which was read over and explained to the accused present in court and they pleaded not guilty to the charge and claimed to be tried following law. The Tribunal discharged the co-accused Most. Manowara Begum.

The prosecution examined 7 witnesses to prove the charge against the accused persons and the defence cross examined the prosecution witnesses. After examination of the prosecution witnesses, the accused persons were examined under section 342 of the Code of Criminal Procedure, 1898 and they declined to adduce any DW. After concluding trial, the trial court by impugned judgment and order acquitted the accused persons from the charge framed against them against which the complainant filed this appeal.

P.W. 1 Most. Sharmin Akter (Rima) stated that the accused Md. Mizanur Rahman is her husband and accused Idris Ali is the father of accused Md. Mizanur Rahman. The marriage of the accused Md. Mizanur Rahman and the complainant was solemnized in 2009. After few days of their marriage, the accused started torture demanding dowry. On 08.08.2009 at 8.00am, the accused beat her for payment of dowry amounting to Tk. 200,000 and forcibly driven her out from his house. The accused inflicted blows to her left eye, back, legs and arms. The complainant informed the matter to her mother through mobile phone. The mother of the complainant wanted to know about the occurrence to the accused. At that time, he also demanded dowry of Tk. 200,000. Since, her mother refused to pay the dowry, the accused driven them out from his house. Her mother took the victim to Charchat Hospital and she was admitted there for two days. She affirmed that the accused asserted through SP, Chapainawabganj that in future, he will not demand dowry and took the victim to his house. Subsequently on 09.05.2010, the accused again demanded dowry and forcibly driven her out from his house. She made attempt to compromise but ultimately failed. She went to Thana to lodge the FIR, but the concern Police Station refused to register the case. Consequently, she filed the case to the Tribunal. She proved the complaint petition as exhibit-1 and her signature on the FIR as exhibit-1/1, 1/2, 1/3. During cross-examination she stated that on 07.08.2009, the accused and the complainant was enjoying their conjugal life in the

house of her husband. She denied the suggestion that after marriage, she did not went to the house of her father-in-law. Initially, her husband demanded dowry at 8.00am and at 10.00am, her husband went to Natore to join the service. On the first date of demanded of dowry, the accused beaten her. She went to hospital at 10/10.30am and she received treatment at 1.00pm. She sustained injuries on the left eye, back, hand and legs. She denied the suggestion that she did not write those in the FIR. She affirmed that swelling caused due to injury. She asserted that only her mother went to hospital along with her. She hand over the medical certificate to the investigating officer. At the time of occurrence, Sergeant Robi, wife of Faruque along with 20/30 people went to the occurrence and witnessed that she was beaten. The house of her father is situated 3/4 km away from the house of her husband. At 8.15/8.20, she called her mother over mobile phone and she came at the house of the accused at 9.00am. Her mother stayed 20 minute at the place occurrence. The house of the accused is the place of occurrence. Neighbour Robi was present at the time of occurrence. She denied the suggestion that no occurrence regarding the demand of dowry took place.

P.W. 2 Most. Babli Begum is the mother of the complainant P.W.1. She stated that the accused Md. Mizanur Rhman is the husband of her daughter. The occurrence took place on 08.08.2010 at 8.00am. After the occurrence, her daughter informed her over telephone that the accused demanded dowry of Tk. 200,000 to her. She went to the

house of the accused who informed her that unless she paid Tk. 200,000 as dowry, he would not take the victim. Since, she refused to pay the dowry, the accused forcibly driven them out from his house. She took the victim to the hospital and she was admitted there. On 09.05.2010, the accused again demanded dowry and when she refused to pay the dowry, again he forcibly driven the complainant out of his house. During cross-examination, she admitted that at the time of occurrence, she was present in her house. At 8.15/8.20am, he received the information and along with Rafiz, went to the house of the accused. She along with 3 others, went to the house of the accused which is situated 3km away from her house. She reached at the place of occurrence at 8.45 am/9.00am. She denied the suggestion that she did not go to the house of accused and or that at that time, the accused also was not present in his house. He denied the suggestion that on 09.05.2010, the accused did not forcibly driven her out from his house for non-payment of dowry.

P.W. 3 Most. Mousumi Akter is the sister of P.W. 1. She stated that the occurrence took place on 08.08.2009 at 8.00am in the house of the accused. The accused beat her sister for non-payment of dowry amounting to Tk. 200,000. She along with her mother went to the house of the accused. She informed that unless Tk. 200,000 is paid as dowry, he will not continue the conjugal life with the complainant. The victim was taken to hospital and she was admitted there for 2 days. The accused made compromise through the SP,

Chapainawabganj. After that, they were enjoying their conjugal life and subsequently he forcibly driven her out from his house and filed case in the family court.

P.W. 4 Md. Rafiz Uddin stated that the complainant and the accused persons were known to him. The occurrence took place on 08.08.2009 at 8.00am at the house of the accused Md. Mizanur Rahman. On that day, the mother of the complainant requested him to go to the house of the accused. She informed that the accused beaten her daughter for non-payment of dowry of Tk. 200,000. He along with them, went to the house of the accused and heard from the locals that the accused beaten the complainant for non-payment of the dowry. During cross-examination, he stated that now he is the Councilor of Charghat Pourashava. On the date of occurrence at 8/8.10 am, mother of the complainant informed him about the occurrence and they started at 8.35 am for the house of accused and at 9.00am they reached to the house of the accused. He saw 5/7 locals at the house of the accused. He affirmed that there are many houses adjacent to the house of the accused. He witnessed the mark of injuries on her left eye and back. The victim was taken to hospital at 9.45 am and mother of the victim identified her. He denied the suggestion that he did not went to the house of the accused or hospital or that he deposed falsely. He heard that the accused sent letter of divorce to the complainant. He denied the suggestion that he deposed falsely.

P.W. 5 Md. Nayon Sarker Khokan stated that the complainant and the accused were known to him. On

08.08.2009 at 8.00am, the accused beaten the complainant for non-payment of dowry of Tk. 200,000. After getting the information, he along with others went to the house of the accused and he also admitted the victim to hospital. He heard that the accused beaten the complainant for non-payment of dowry. He asserted that at the time of occurrence, he was present in the house of the accused Md. Mizanur Rahman. The complainant is the daughter of her sister. He is not aware whether the accused Md. Mizanur Rahman divorced the complainant for misunderstanding between them. He denied the suggestion that he deposed falsely.

P.W. 6 Md. Rashedul Islam is the investigating officer. He stated that on 10.06.2010, he was discharging his duty as Sub-Inspector of Charghat Thana and he was appointed as investigating officer of the case. He visited the place of occurrence, prepared the sketch map and index. He proved the sketch map and index as exhibit-2 and his signature as exhibit-2/1. He recorded the statement of witnesses under section 161 of the Code of Criminal Procedure, 1898 and collected the medical certificate of the victim. During investigation, he found the prima facie truth of the allegation against the accused Idris Ali, Md. Mizanur Rahman and Most. Manowara Begum and submitted charge sheet against the accused Md. Mizanur Rahman under section 11(ga) of the Nari-O-Shishu Nirjatan Ain, 2000 and section 11(ga)/30 of the said Act against the accused Idris Ali and Most. Manowara Begum. During cross-examination, he stated that witness Nos. 5 and 6 cited in the charge sheet are locals. He

collected the medical certificate of the victim from Charchat Health Complex. He denied the suggestion that he did not visit the place of occurrence or he did not record the statement of witnesses or that father of the complainant is a cook of the higher police officer. He denied the suggestion that the accused persons were falsely implicated in the case.

P.W. 7 Dr. Gopa Kunda is the Medical Officer of Charchat Upazila Health Complex. He stated that on 08.08.2009, when he was discharging his duty in the said hospital, he examined the victim Most. Sharmin Akter (Rima) and found multiple bruise and abrasions on different size and shape below left eye, over left arm, over back, groin and thigh. He issued the medical certificate. He proved the medical certificate as exhibit-3 and his signature as exhibit-3/1. During cross-examination, he admitted that on 08.08.2009 at 1.40pm, he examined the victim Most. Sharmin Akter (Rima) at Charchat Upazila Health Complex. He admitted that a doctor was assigned in the emergency department of the said hospital. He also affirmed that the ward number is not mentioned in the medical certificate of the victim and the date of admission and discharge is also not mentioned in the medical certificate. He did not issue the discharge certificate. He did not write the injury certificate but he signed the said certificate. He denied the suggestion that he did not examine the victim or that on the request of the accused, he issued the medical certificate.

No one appears on behalf of the appellant.

The learned Advocate Mr. Md Habibur Rahman appearing on behalf of the accused respondent No. 2 and 3 submits that the injuries allegedly sustained by P.W.1 is not corroborated by the medical certificate (exhibit-3) and the witnesses admittedly present at the time of occurrence were not examined by the prosecution and the prosecution only examined the relation witnesses who were inimical to the accused and none of the neighbours were examined in the case. He further submits that the evidence of P.W.1 regarding alleged injuries caused by the accused at the time of occurrence is not corroborated by any other eye witness of the occurrence and admittedly P.Ws. 4 and 5 were not present at the place of occurrence and the trial court disbelieved the medical certificate issued by P.W. 7 (exhibit-3) and the evidence of prosecution witnesses. The prosecution failed to prove the charge against the accused beyond all reasonable doubt and legally passed the impugned judgment and order acquitting the accused. He prayed for dismissal of the appeal.

The learned DAG Mr. Md. Anichur Rahman Khan appearing along with learned Assistant Attorney General Mr. Sultan Mahmood Banna on behalf of the state submits that P.W. 7 corroborated the statement of P.W. 1 regarding her injuries sustained at the time of occurrence caused by the accused due to refusal to pay the dowry and evidence of single witness is sufficient to prove the charge under section 11(ga) of the Nari-O-Shishu Nirjatan Daman Ain, 2000. He further submits that the place of occurrence is the house of

the accused and the house of the victim is situated about 3 km away from the house of the accused. Therefore, it was not possible for the prosecution to examine the locals who were present at the time of occurrence and there was no reason to disbelieve the medical certificate issued by the P.W. 7. The prosecution proved the charge against the accused under section 11(ga) of the Nari-O-Shishu Nirjatan Daman Ain, 2000 and the trial court illegally passed the impugned judgment and order acquitting the accused. He prayed for allowing the appeal setting aside the impugned judgment and order passed by the trial court.

I have considered the submission of the learned Advocate Mr. Md. Habibur Rahman who appeared on behalf of the respondent No. 2 and 3 and the learned Deputy Attorney General Mr. Md. Anichur Rahman Khan who appeared on behalf of the state, perused the evidence, impugned judgment and order passed by the trial court, and the records.

P.W. 1 victim Most. Sharmin Akter (Rima) stated that on 08.08.2009 at 8am the accused demanded dowry of Tk. 200,000 and she sustained injuries on left eye, back, hand and legs. She informed the matter to her mother over telephone and her mother came to the place of occurrence and she was admitted in the hospital for two days. During cross examination, she stated that her mother alone took her to hospital at 10/10.30 am. P.W. 2 Most. Babli Begum is the mother of P.W. 1. She stated that the occurrence took place on 08.08.2010 at 8.00am and her daughter P.W. 1 victim

Most. Sharmin Akter (Rima) informed her over telephone. Thereafter, she went to the house of the accused and took the victim to hospital. P.W. 7 admitted in cross-examination that on 08.08.2009 at 1.40pm, he examined the victim at the emergency department of the Upazila Health Complex, Charghat and the emergency department of Charghat Hospital was opened for 24 hours. No explanation has been given by P.W. 1 as to why P.W. 7 examined her after about 3(three) hours of her arrival at emergency department of the Upazila Health Complex, Charghat. Furthermore, P.W. 1 stated that she stayed at hospital under treatment for two days. No discharge certificate was proved in the case and no bed number and ward number is mentioned in the medical certificate dated 04.07.2010.

The alleged occurrence took place on 08.08.2009 at 8.00am and the FIR was lodged after about 10(ten) months on 10.06.2010. No explanation has been given as to why at the time of filing the complaint petition on 31.05.2010 in the Nari-O-Shishu Nirjatan Daman Tribunal No. 2, the discharge certificate and medical certificate was not annexed with the complaint petition. P.W. 7 Doctor Gopa Kunda issued the medical certificate on 04.07.2010(exhibit-3). He stated that the description of the injuries on the certificate was not written by him, he only signed the certificate. No explanation has been given by P.W. 7 why bed or ward number is not mentioned in the medical certificate (exhibit-3). In the absence of discharge certificate, it cannot be said that the victim was admitted to Charghat Thana Health Complex. No

ticket, regarding the treatment of the victim is also proved in the case. I am of the view that the medical certificate (exhibit-3) was subsequently procured by P.W. 1 through P.W. 7.

P.W. 4 Rafiz is the Councilor of Charghat Pourashava. During cross-examination, he stated that he heard that the accused sent the divorce letter to the address of complainant and the complaint petition was filed after about 09 months from the date of occurrence. Therefore, the defence case that the accused divorced the victim and he was falsely implicated in the case cannot be ruled out.

P.W.1 admitted that at the time of occurrence one Robi, Sergeant, wife of one Faruque and 20/30 locals also assembled at the place of occurrence. P.W. 3 admitted that at the time of occurrence, the neighboring people were also present there. P.W. 4 stated that he saw 5/7 persons at the place of occurrence. P.W. 6 investigating officer admitted in cross-examination that witness Nos. 5 and 6 cited in the charge sheet are the locals. During trial, no one of the neighbours who were admittedly present at the place of occurrence was examined in the case. The prosecution examined only the close relatives of the victim and withheld the locals, neutral, disinterested and credible witnesses. Therefore, the evidence of close relatives of the victim cannot be relied on by this court to find the accused persons guilty of the offence without corroboration of independent, neutral and credible witnesses of the occurrence. It is found

that the trial court also disbelieved the medical certificate of the victim.

The evidence discussed hereinabove, depicts that the prosecution totally failed to prove the charge against the accused beyond all reasonable doubt and the trial court passed the impugned judgment and order on correct assessment and evaluation of the evidence of the prosecution witnesses.

I find no merit in the appeal.

In the result, the appeal is dismissed.

However, there will be no order as to costs.

The impugned judgment and order of acquittal passed by the trial court is hereby affirmed.

Send down the lower court's record at once.