

**HIGH COURT OF TRIPURA
AGARTALA
Crl.Rev.P.No.29 of 2022**

Sri Sourav Shil

.....Petitioner(s)

Versus

The State of Tripura

.....Respondent(s)

For Petitioner(s)	:	Ms. M. Pal, Adv.
For Respondent(s)	:	Mr. R. Datta, P.P.
Date of hearing		
and Judgment & Order	:	18.01.2023

HON'BLE THE CHIEF JUSTICE (ACTING)

Judgment & Order(Oral)

Heard Ms. M. Pal, learned counsel appearing for the petitioner as well as Mr. R. Datta, learned P.P. appearing for the State.

2. This is a petition under Section 397(1) read with Section 401 of the Cr.P.C. against the order of framing charge dated 05.04.2022 passed by the Special Judge, Kamalpur, Dhalai Judicial District in connection with Case No. Special(POCSO)11 of 2021 framed upon the accused petitioner under Sections 305 of IPC and Section 4 of POCSO Act, 2012.

3. The prosecution story as alleged in brief is that the complainants daughter namely Miss Neha Shil aged about 15 years was staying in the maternal uncle's house since last ten years and continued her studied. On 04.11.2021 at about 22:00 hrs. the FIR named A/P with his criminal intimidation called her minor daughter and taken her in a dark place behind her

maternal uncle's house and forcefully committed rape upon her. Though, the victim and the accused were in relation of maternal uncle and niece. In absence of the house inmates, the victim informed the matter to her friend namely Kishan Paul on the same night over telephone and her friend advised her to inform the matter to the complainant. On the very next date, the victim informed the matter to the complainant i.e. her mother and on the same day, on 05.11.2021 the complainant came to the house of FIR named A/P and informed the fact to the house inmates of A/P while FIR named A/P threatened the complainant by using slang languages and also told her not to inform the fact to police otherwise he will teach her a good lesson. Finding no other alternative and as the victim was sick from consuming the poisonous seed of Oleander, the complainant ground her daughter to Ambassa PHC for treatment from where the victim was referred to Kulai District Hospital for better treatment where on 07.11.2021 afternoon at about 1500 hours, she succumbed due to consumption of poison.

4. On the basis of the said complaint, a case was registered before the Kamalpur P.S. vide Case No.2021/KMP/071 dated 12.11.2021 under Section 376(3)/305/506 of IPC and under Section 04 of POCSO Act,2012.

5. On the basis of the said alleged charge sheet, the court below took cognizance of the offences as per provisions of law and framed impugned charge under Section 376(3)/305/506 of the IPC and Section 4 of the POCSO Act, 2012 against the accused petitioner on 05.04.2022.

6. Being aggrieved and dissatisfied with the order of the impugned charges dated 05.04.2022 under Section 376(3)/305/506 of the IPC and

Section 4 of the POCSO Act, 2012 passed by the Special Judge, Kamalpur, Dhalai Tripura this present criminal revision petition has been filed.

7. Having heard both sides, this court is of the considered opinion that as it has been represented by learned P.P. that unless the trial is commenced and examination of one witness is in progress, hence, at this juncture, quashing of Section 305 of the IPC cannot be reasonable. However, it is always for the petitioner accused to make the sufficient cross examination in terms of Section 313 of the Cr.P.C.

In view of the said submission, the present criminal revision petition is dismissed.

Since the trial is in progress learned P.P. has returned the lower court record. Registry shall forward the same to the court below.

Pending application/s, if any, also stands dismissed.

CHIEF JUSTICE(ACTING)



सत्यमेव जयते