

THE HIGH COURT OF TRIPURA
AGARTALA

CRL. PETN. 05 of 2012

1. Sri Shib Sankar Deb
S/o. Sri Subal Chandra Deb,
2. Smt. Jaya Deb
W/o. Sri Shib Sankar Deb,
3. Sri Subhajit Deb
S/o. Sri Shib Sankar Deb,

All are resident of
C/o. Lt. Parimal Chakraborty,
'Parimal Bhavan'
Banamalipur, P.O. Banamalipur,
P.S. East Agartala,
Dist. West Tripura.

..... *Petitioners*

- *Vs* -

The State of Tripura,
Represented by the
Learned Public Prosecutor.

..... *Respondent*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the Petitioners	: Ms. K. Roy, Advocate.
For the respondent	: Mr. R.C. Debnath, Addl. P.P.
Date of hearing & delivery of Judgment & order	: 14.07.2015.
Whether fit for reporting	: No

JUDGMENT & ORDER (ORAL)

This petition under Section 482 Cr.P.C. has been filed
with the prayer that proceedings in Case No.PRC.1332 of 2010

pending in the Court of learned Chief Judicial Magistrate, Agartala, West Tripura be quashed.

2. The prosecution was set in motion by the written complaint of the prosecutrix Rinki Das, which reads as follows:-

To
The Officer-In-Charge,
West Agartala Police Station,
Agartala, West Tripura.

Subject:- Ejahar.

Sir,

With due respect I am to state that I am an educated unemployed youth and child of a poor family. On last February, 2009 I went to a beauty parlour at Overseas Market to learn the works of beauty parlour. Accordingly, I have learnt within three months by paying Rs. 1,500/- per month. I have learnt the works from Jaya Deb. Jaya Deb confined me till September, 2010 alluring me for taking part in the unethical work. Thereafter, the husband of Jaya Deb namely Sri Shib Sankar Deb (Bura) very often used to offer me drinks after rising me from sleep and on my refusal assault me and in one occasion being drunk had embraced me. There is party of hot drinks in every night in the house of the Jaya Deb and the husband of Jaya Deb namely Shib Sankar Deb and her only son Subhajit Deb indulged in doing so.

Later on, I have fled away from that house by telling them to get treatment at Silchar. Last Monday on 29.11.2010 at about 5.15 P.M. myself and my mother went to their house and demanded my dues money. At that time, Shib Sankar Deb and his son Subhajit Deb tried to assault me and threatened of killing me. In such bad situation I have returned back with my mother and disclosed the matter to my relatives. Then they have advised me to take shelter of law. I have witnesses. I want justice against the wrong doers."

Writer and Reader
Anindita Nag
Pandit Rabi Nag
Dimsagar Par,
Agartala, West Tripura.

Yours faithfully,
Rinki Das,
Father – Sri Amrit Kumar Das
Vill. Surja Para, A.D. Nagar,
P.S. West Agartala."

3. On the basis of this complaint, the police carried out investigation and charge sheet has been submitted against the accused alleging that they have committed offences. The accused-petitioners Smt. Jaya Deb and Sri Subhajit Deb have been charged for having committed offences punishable under Sections 341/506/34 IPC. whereas Sri Shib Sankar Deb has been charged with having committed offences punishable under Sections 341/354/506/34 IPC.

4. It is urged by Ms. K. Roy, learned counsel that as per the complaint, the complainant had joined the Beauty Parlour of the accused Jaya Deb on February, 2009 at Overseas Market. She submits that at that time i.e. February, 2009 her client did not own any Beauty Parlour at Overseas Market. Her second contention is that according to the complainant she was kept confined in the house for almost 10 months from February, 2009, till September, 2010. She submits that in their statements recorded under Section 161 Cr.P.C., the mother and sister of the prosecutrix have themselves admitted that they used to visit the prosecutrix during this period in the house of the present petitioners. She also submits that next to the house of the petitioner there is a newspaper office. A Police Station is also close by it and it cannot be believed that the victim could have been confined for almost two years in one house. Lastly, it is submitted that as far as

petitioner No.3 is concerned he was a minor at that time and he was not even present in the house.

5. At this stage of the case when only charge sheet has been filed, this Court does not look into the merits of the allegations. The only thing which has to be looked into is whether the allegations levelled make out that an offence has been committed or not. Whether the allegations are correct or not is not for this Court to decide. The allegations as made may be true or untrue, but the allegations as set out in the complaint which have been quoted hereinabove clearly indicate the commission of an offence. At the stage of discharge, this Court cannot go into the merits of the case and therefore, I find no merit in the petition, which is accordingly rejected.

6. It is, however, made clear that this Court has not expressed view on the merits of the case and is only going by what has been stated in the complaint. If the petitioners establish before the trial Court that there was no Beauty Parlour at that time, they may be entitled to acquittal but at this stage, the statement of the complainant will have to be accepted to be the gospel truth.

7. Therefore, the petition is dismissed, but liberty is reserved to the petitioners to move an application before the trial Court to show that petitioner No.3 was a minor at the time. In

case, it is found that he was a minor then the Magistrate shall drop the proceedings against him.

8. It is also made clear that at the time of framing of the charge, the petitioner shall be entitled to raise all points to show that no charge should be framed.

CHIEF JUSTICE

Sima/Sabyasachi Ghosh