

13.07.2022

Sl. No. 191

Srimanta

Ct.No. 42

List – M/L

CRR/2118/2022

In the matter of : **Putul Dasgupta**

...petitioner.

Mr. Soumik Ganguli, Adv.

...for the petitioner.

The petitioner has filed the instant revision under Section 482 of the Code of Criminal Procedure praying for quashing of the proceedings being Charge-sheet No.238118/2018 dated 31st January, 2018 under Section 17 of the Protection of Children from Sexual Offences Act arising out of Bishnupur Police Station Case No. 229 dated 4th November, 2018. The petitioner is the co-accused in POCSO Case No. 10/2018 corresponding to POCSO Trial No. 11/2018. It is necessary to record that the petitioner is the wife of Arijit Dasgupta.

During trial of the above-mentioned POCSO case the petitioner absconded and his attendance could not be procured in spite of several efforts by the Trial Court. It is also recorded that the petitioner remained absent after being granted anticipatory bail by this Court. Since her attendance could not be ensured during the trial of the case, the case against the petitioner was filed for the present and it proceeded as against the husband of the petitioner, namely, Arijit Dasgupta. The trial ended in acquittal of the said Arijit Dasgupta in POCSO Case No. 10/2018.

In the judgment of POCSO Case No. 10/2018, the Trial Court observed as hereunder:-

"Furthermore, it is to be mentioned here that the prosecution had also submitted charge sheet against Putul Dasgupta wife of the accused, she surrendered before the Court, obtained bail but she did not turn up subsequently and following all formalities this Court had filed the case for present against her. But peculiarity of this case is that neither the victim girl (PW 1) nor her parents (PW 2 and PW 6) made any allegation or aspersion against Smt. Putul Dasgupta on oath in the Court. The approaches of the prosecution witnesses towards Putul Dasgupta further creates doubt about the truthfulness of the alleged incident".

Now, the petitioner has prayed for quashing of the above-mentioned POCSO case in view of the observation made by the Trial Judge in his judgment.

It is pertinent to note that the petitioner did not face trial. She absconded and trial of the case was filed as against her. Therefore, in accordance with the provision of Section 299 of the Code of Criminal Procedure, trial against her is required to be commenced. If the prosecution wants, the prosecution may adopt the evidence on record deposed by the witnesses on behalf of the prosecution and produce the said witnesses for cross-examination. If the accused/petitioner, on the other hand, adopts the entire evidence of the witnesses on behalf of the prosecution, Court shall proceed with examination of the accused under Section 313 of the Code of Criminal Procedure and deliver of judgment. The proceeding cannot be quashed on the basis of the observation recorded hereinabove in the trial against the husband of the petitioner, Arijit Dasgupta.

Therefore, I do not find any merit in the instant revision and the same is liable to be dismissed summarily.

It is submitted by the Learned Advocate for the petitioner that warrant of arrest is pending against her. If the

petitioner is given liberty to surrender with a direction to the Learned Court below to consider the application for bail of the petitioner in view of the observation made by the Trial Court in page 22 of the judgment, the petitioner may not be taken into custody for non-compliance of the Court's order.

In view of prolonged abscondance on the part of the petitioner this Court leaves the entire matter for consideration according to law upon the Trial Court. This Court does not wish to pass any order on the above prayer made by the Learned Advocate for the petitioner.

However, the petitioner is at liberty to agitate this point before the Trial Court and the Trial Court shall consider the matter in accordance with law. .

(Bibek Chaudhuri, J.)