

08.5.2023

SB
Ct. No.236

CRR 1164 of 2005

In the matter of : Chaina Sarkar

Mr. Prabir Majumder
Mr. S. Majumder ... for the petitioner

Mr. N. P. Agarwala
Mr. P. Bose ... for the State

This revisional application challenges the judgment passed by the learned Additional District and Sessions Judge, Fast Track, 1st Court, Krishnanagar, Nadia in S.C. Case No. 49(8) 04 and S.T. No. X September 2004.

Briefly stated, the victim lady was of 15 years when she was deflowered by her neighbor Arabinda Mondal with a promise to marry her. The victim became pregnant and Arabinda Mondal disowned the responsibility. Police was informed and Tehatta P.S. Case No. 95 of 2004 was registered. After investigation police submitted charge sheet against the accused person under Sections 376 / 417 of the Indian Penal Code. Learned Trial Court after considering the testimony of prosecution witnesses was pleased to record an order of acquittal. According to the learned Trial Court the victim at the time of occurrence had attained the age of discretion. The victim is P.W. I, narrated that how she was forced to indulge in physical relationship with the accused person who promised to marry her. After she conceived the victim disclosed the incident to her mother. Salish was held at the village where the accused person refused to marry her. P.W. 11 the

Doctor stated that the victim was carrying a baby. P.W. 5 Doctor Partha Lodh held ossification test of the victim girl at Shaktinagar Hospital as radiologist and opined that the victim was aged about 16 ½ years to 18 years with allowable variation P.W. 5 was not examined by the prosecution in the light of Section 154 of the Evidence Act. Therefore, the prosecution had admitted that the victim was aged about more than 16 years. Thus, I do not find any reason to interfere with order impugned.

The revisional application does not merit any further consideration and is dismissed.

Let a copy of the order be sent to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)