

14.03.2023
jaydev

CRR 4606 of 2022

In the matter of:- Ratnakar Dey

.....Petitioner

Mr. Uday Sankar Chattopadhyay, Adv.,
Ms. Rajashree Tah, Adv.,
Ms. Trisha Rakshit, Adv.

...For the petitioner

By an order dated 28th November, 2022 petitioner's application under Section 227 of the Cr.P.C praying for discharging him from the charge punishable under Section 6 of the POCSO Act, was rejected by the learned Judge Special Court at Katwa.

Being aggrieved the petitioner has assailed the impugned order dated 28th November, 2022 before this Court by filing the instant criminal revision.

Opposite party No.2 lodged a written complaint before the Officer-in-Charge, Hasnkhali P.S on 23rd May, 2022 against the petitioner alleging, inter alia, that about years ago accused Ratnakar Dey, a local leader of the ruling political party came to their house and advised her to take help for the development of their socio-economic condition. He specifically told the defacto complainant to meet him. At the relevant point of time she was minor. Taking advantage of her poverty and minority the accused committed aggravated penetration sexual assault upon her at different places. The defacto complainant could not disclose the said fact to her family members and neighbours. Whenever she tried to avoid her the accused used to abuse her filthily and threatened her with dire consequences. The accused also obtained her signature on a blank paper and

manage to create a certificate of registration of marriage though the defacto complainant is younger by 45 years from the accused.

On 22nd May, 2022 some unknown persons came to their house and directed her to go to the house of the accused immediately. On the basis of the said complaint, police registered Hasnkhali P.S Case No.486 of 2022 dated 23rd May, 2022 and finally submitted charge-sheet against the petitioner under Sections 376(3)/420/506 of the IPC read with Section 6 of the POCSO Act.

In the trial court the petitioner submitted that there is absolutely no material of framing of charge under Section 6 of the POCSO Act against the petitioner and he may be discharged from the charge under Section 6 of the POCSO Act. By passing the impugned order the learned trial judge rejected the said petition under Section 227 of the Cr.P.C. so is the instant revision.

Mr. Uday Sankar Chattopadhyay, learned Advocate for the petitioner submits that the defacto complainant is a Group-D staff in ESI Hospital, Durgapur. Her marriage was solemnized under the Special Marriage Act with the petitioner on 8th July, 2020. In the marriage registration certificate her date of birth is recorded as on 1st March, 1996 thus, at the time of her marriage with the petitioner she was aged about 24 years 4 months and 7 days. It is also submitted by Mr. Chattopadhyay that the learned trial judge failed to appreciate that the opposite party No.2 lodged complaint after a lapse of about nine years from the alleged occurrence. It is also submitted by the learned Advocate for the petitioner that learned trial judge did not consider such issue while

rejecting the application under Section 227 of the Cr.P.C.

I have carefully perused the impugned order. At the outset it is recorded that delay in lodging FIR cannot be the sole ground for discharging an accused. Of course, criminal law demands earliest submission of written complaint before the police to facilitate the investigating agency to collect evidence before they disappear, but delay per se is not a ground to hold that the prosecution case is false and concocted. From the contents of the written complaint it is ascertained that the family of the defacto complainant belonged to the lowest strata of socio-economic structure. The grievance of the defacto complainant is that taking advantage of their socio-economic condition the accused committed aggravated sexual assault upon her during her minority. She denied her marriage with the petitioner. On the contrary, it is the grievance of the defacto complainant that the accused forcibly obtained some signatures on blank papers and converted those papers to obtain a false certificate of marriage with the defacto complainant. All such issues are the issues of fact to be decided at the time of trial on the basis of evidence adduced by the parties.

For the reasons stated above, I do not find any illegality or material irregularity in the impugned order passed by the learned Special Judge, Katwa on 28th November, 2022.

Accordingly, the instant criminal revision is summarily dismissed.

(Bibek Chaudhuri, J.)