

06.01.2023
SL No.38
Court No.3
BR

**Circuit Bench of Calcutta High Court
At Jalpaiguri**

CRR 173 of 2021

**In the matter of :Dr. Rabindranath Nag
.... Petitioner**

Mr. Shibaji Kumar Das For the petitioner

Mr. Aditi S. Chakraborty,Ld. APP,
Mr. Sourav Ganguly For the State

This criminal revision assails the order No. 51 dated 22nd October, 2021 passed by learned Special Judge under POCSO Act in Special Case No. 2 of 2020.

Heard learned counsel representing the petitioner and the State respectively. It is contended by learned counsel for the petitioner that the petitioner is a medical practitioner and with the consent of the elder sister of the victim the pregnancy of the victim girl was terminated at his nursing home but he has been implicated in this case for committing offence within the meaning of Section 313 of the Indian Penal Code. The petitioner filed an application under Section 227 of the Cr. P C seeking discharge and by the order impugned learned Trial Court was pleased to reject the application. According to learned counsel for the petitioner quite rightly since the petitioner is a medical practitioner, who terminated the pregnancy with the consent of the guardian of the victim, there is hardly any room to implicate

him under Section 313 of the IPC. However, Mr. Ganguly, learned counsel representing the State has rightly pointed out that the pregnancy was of 28 to 30 weeks and under the P.N.D.T Act the doctor had no authority to terminate such pregnancy, it was done in violation of statute and thereby he has made himself culpable for committing offence within the meaning of P.N.D.T. Act.

Under such circumstances, I am inclined to set aside the order impugned passed by learned Trial Court .

Learned Trial Court is directed to consider the submissions to be made by learned advocate on behalf of the petitioner – accused at the time of framing of charge and to make appropriate order in the light of the observations made hereinabove.

With these observations the criminal revision is disposed of.

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

Urgent Photostat certified copy of this order, if applied for, should be made available to the parties upon compliance with the requisite formalities.

(Siddhartha Roy Chowdhury, J.)