

02.04.2024
Sl.No. 56
Ct. 32
Amalranjan

In The High Court At Calcutta
Criminal Revisional Jurisdiction
Appellate Side

CRR 1526 of 2017

Saifuddin Ahamed
Vs.
The State of West Bengal and anr.

This case pertains to the year 2017.

By the present application the petitioner/accused sought for setting aside the order dated 18.4.2017 passed by the learned Additional District & Sessions Judge, 2nd Court, Raiganj, Uttar Dinajpur in connection with POCSO 68/16 and S.T No. 05(04) of 2017 arising out of Raiganj Women Police station case no. 49/2016 dated 11.7.2016 under section 341/506 of the IPC and under section 17/19 of the Protection of Children from Sexual Offences Act, 2012.

Nobody appears on behalf of either of the parties on call.

In pursuant to the court order, administrative notice was issued upon the petitioner as well as the defacto-complainant/opposite party no. 2. In spite of service of such notice, nobody represented the parties before this court today on call. Accordingly, this matter is taken up for disposal on merit, as the case is pending since 2017 and to avoid further delay.

The brief fact of the instant application is relevant for the purpose of disposal of this case.

Raiganj PS case no. 49/2016 dated 11.7.2016 under section 341 of the POCSO Act read with section 506 of the IPC, has been registered on the basis of written complaint lodged by the defacto-complainant with the allegation, inter alia, to the effect that the daughter of the defacto-complainant was a minor. She had a love affairs with one Nasar Mohammed, who had sexually assaulted her minor daughter on assurance to her to marry and further cohabited with her on several occasions. He threatened with dire consequences to the defacto-complainant and her daughter.

During investigation the petitioner and Nasar Mohammed were arrested and they were subsequently released on bail, though the allegation against the petitioner was not specific.

It is the further contention of the petitioner that the accused Nasar Mohammed was sent to the juvenile justice board for trial since he was minor on the date of incident.

A date was fixed for framing of charge against the present petitioner by the trial court on 18.4.2017.

The petitioner filed an application under section 227 of the Criminal Procedure Code stating, inter alia, that neither the victim nor the witnesses stated anything against the present petitioner. However, he was implicated during investigation by the investigating officer.

The said application was heard by the trial court on 18.4.2017 and rejected the prayer for discharge holding, inter alia, therein that there is a specific allegation against the

accused. Subsequently, during investigation his name was transpired.

Accordingly, prima facie, charge under section 341/506 of the IPC and under section 17/19 of the POCSO Act was made out against the accused/present petitioner and formally charge was framed and the same was read over and explained by the accused in Bengali and he pleaded not guilty by saying “nirdosh” and claimed for trial.

It is the contention of the petitioner that the rejection of his discharge application and framing charge is illegal, arbitrary and non-application of mind by the trial court. Accordingly, the same is liable to be set aside.

Upon perusal of the application thoroughly and the annexures thereto including the order dated 18.4.2017 passed by the Additional District & Sessions Judge, 2nd Court, Raiganj, Uttar Dinajpur, it reveals a charge was framed against the present petitioner under section 341/506 of the IPC and under section 17/19 of the POCSO Act. As there was a specific allegation against the accused for not reporting the incident under the POCSO Act. The trial court also found prima facie, case against the present petitioner. Accordingly, his prayer for discharge was rejected.

After going through the entire order this court does not find any infirmity or illegality while rejecting the application for discharge and framing of charge against the present petitioner, this court also does not find any jurisdictional error or law in passing such order. As such the

instant revisional application is devoid of merit. Consequently, **CRR 1526 of 2017** is, thus, dismissed without any order as to costs.

Interim order, if any, stands vacated.

Let the order be communicated to the Ld. Court below for information.

Liberty is granted to all parties to act in terms of the copy of this order downloaded from the official website of this court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties taking all legal formalities.

(Ajay Kumar Gupta, J.)