

05.12.2025
Serial no.2
Piya
Ct. No. 30

CRR 3031 of 2025

Tarak Das

Vs.

The State of West Bengal & Anr.

Mr. Kamalesh Chandra Saha
Ms. Payel Mitra
Ms. Mishuk Saha

.....For the Petitioner

Mr. Debasish Roy, PP.
Ms. Rituparna De Ghose,
Ms. Madhumita Basak

.... For the State

1. The revisional application has been preferred praying for quashing of the proceeding, Order taking cognizance dated 13-05-25 and subsequent orders passed by the Ld. Judge Special Court, Barasat, North 24 Parganas in connection with S.P.L Case No.32 of 2025, arising out of Madhyamgram P.S Case no. 144 of 2025 dated 28.02.2025 under Section 70(2) B.N.S Act read with Section 6 of POCSO Act adding Section 3(2)(v) of SC/ST (Prevention Of Atrocities Act) 1989.
2. The accused/petitioner's case is that the present case was registered on the basis of a complaint registered on the allegation that:-

"On 27.02.2025 at about 06:30 am, when the victim was at home alone, at that time the petitioner namely Tarak Das made her frightened and took her into an adjacent house of one Raj and there the two accused

Raj and Tarak forcefully raped the victim and apart from this the present accused/petitioner as well as the boy namely Raj took snaps of the incident and made a video and they threatened the victim by saying that this incident should not be disclosed to anybody.”

3. On 28.02.2025 after being asked, the victim girl stated everything to her parents regarding the incident and then to the concerned P.S. leading to the registration of the F.I.R being Madhyamgram P.S Case no.144 of 2025 under Section 70(2) of B.N.S and Section 6 of POCSO Act.
4. It is also the case of the petitioner that the victim at the material time was aged about 17 years and as such Section 6 of the POCSO Act is not attracted considering the age of the victim.
5. It is further submitted that after completion of the investigation, the investigating officer of this case has submitted charge sheet against the petitioner under Section 70(2) B.N.S. Act read with Section 6 of the POCSO Act and subsequently adding Section 3(2)(v) of SC/ST Act 1989.
6. The learned Trial Court took cognizance on 13.05.2025, which is bad in law and liable to be quashed.
7. Petitioner's case is that neither the petitioner nor the victim girl come from SC/ST community and to that effect there is no mention in the FIR regarding the status of the victim girl and the petitioner.

8. So far the offences alleged under the Schedule Caste and Schedule Tribe is concerned, it is stated that it is the settled principal of law that investigation in such cases should be conducted by an officer not below the rank of Deputy Superintendent of Police. The SC/ST Sections being added and the investigation being conducted by a Sub-Inspector, is not in accordance with law and as such the said Police report/charge sheet is liable to be quashed/set aside.
9. It is further stated by the petitioner that as per Section 35 of the POCSO Act, the evidence of the victim girl is to be completed within a specified period and if not done, the Trial Court has to record reasons for the delay, which in this case has not been done and as such the case against the petitioner is liable to be quashed.
10. The petitioner has relied upon the following judgments:-
 - i. ***Pravat Kumar Mishra @ Pravat Mishra vs The State of UP, in Criminal Appeal No(s). ... of 2024 (arising out of SLP (Crl.) No(s). 9591 of 2022), on March, 2024, (Para 16,17).***
 - ii. ***The State of Madhya Pradesh vs Babbu Rathore, AIR 2020 Supreme Court 472, on 17 January, 2020, (Para 5).***
 - iii. ***Dhruvaram Murlidhar Sonar vs The State of Maharashtra, AIR 2019 Supreme Court 327, on 22 November, 2018, (Para 8, 9, 12, 23, 27).***

iv. Yuvraj Laxmilal Kanther and Anr. vs State of Maharashtra, 2025(2) AICLR 519 (S.C.), on 07.03.2025, (Para 16,17).

v. Shalu and Anr. vs State of Hariyana & Anr., 2018 (2) AICLR 531 (Pb & Hry.), on 14.02.2018.

11. Considering the materials on record, and on hearing the learned counsel for the petitioner and the learned public prosecutor, it appears that the petitioner herein has prayed for quashing on the following grounds:-

- i. That the charge sheet submitted in the present case, which includes offences under the SC & ST Act is not in accordance with law, as the investigation has been conducted by a Sub-Inspector of Police and not by a Superior Officer as mandated by the provisions of the Act.

Learned public prosecutor has placed the case diary, wherein it appears at page 214 that in the diary dated 02.05.2025, it has been noted as follows:-

“...Resumed further investigation of the case today.

This time I consulted with my superiors regarding the investigation of this case and after perusing my case docket they opined to hand over the case docket before Shri Vidyagar Ajanka Anand IPS, SDPO Barasat for further investigation. As I am not entitled to precede the Investigation further.

This time as per order of my superiors I am making over the entire case docket to the Shri Vidyagar Ajanka Anand IPS, SDPO Barasat for further investigation in this case.....”

Accordingly, this Court finds that the investigation in the case is prima facie in accordance with law and the petitioner's said contention having no merit is rejected.

- ii. The next contention is that the Trial Court has not followed the mandatory provision under Section 35 of the POCSO Act. Learned Public Prosecutor submits that the said provision is for the welfare of the victim in such cases and not a ground for quashing such heinous offences against the accused.

Certified copies of order sheets are filed and it appears that the trial Court is prima facie proceeding in accordance with law.

Considering the said arguments, this Court does not find any ground to quash the proceeding against the accused for alleged non-compliance of Section 35 of the POCSO Act.

- 12.** The third contention of the petitioner is that the victim is not a minor and the charges as framed are not applicable to the accused.
- 13.** This is a matter to be considered by the trial Court on relevant evidence being adduced and since the trial has progressed considerably, this Court is not inclined to interfere in the same as that shall amount to abuse of process of law/Court.

14. Learned counsel for the petitioner submits that the accused is facing trial in custody. It appears that the petitioner's prayer for bail was "not pressed" by the petitioner himself.
15. Accordingly, the trial Court is directed to **conclude the trial** and dispose of the case in accordance with law, **within the time prescribed under Section 35(2) of the POCSO Act.**
16. **CRR 3031 of 2025 is thus dismissed.**
17. All connected Applications, if any, stands disposed of.
18. Interim order, if any, stands vacated.
19. Copy of this order be sent to the learned Trial Court.
20. Urgent certified website copy of this order, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)