

Item no. 02

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Md. Shabbar Rashidi, J.

CRR 3542 of 2025

Nazaharul Islam @ Md. Nirale

vs.

The State of West Bengal & Anr.

Appearance:

For the petitioner : Mr. Jahar Lal Roy
Mr. Saptarshi Kr. Kundu

For the State : Mr. Sanjoy Bardhan
Mr. Mujibar Ali Naskar

Heard on : 09.09.2025

Judgment on : **09.09.2025**

Md. Shabbar Rashidi, J.:

1. The revisional application is directed against an order No. 16, dated March 19, 2025 passed in Special Case No. 460 of 2024.

2. By the impugned order an application filed on behalf of the petitioner/accused seeking Ossification Test of

the victim for determination of her age was rejected by the learned Judge, Special Court and 2nd Additional Sessions Judge, Alipore.

3. It is submitted on behalf of the learned advocate for the petitioner that both the victim and the petitioner used to study in a school and developed a relationship between them, they were in talking terms with each other. It was further contended that in November 2024, the victim girl called the petitioner over mobile phone and asked him to meet at Howrah Station. Thereafter they went to Puri by train without informing the parents and guardians and after that they eloped in the company of each other.

4. A complaint was lodged in this regard and a case was initiated against the present petitioner. The victim girl was recovered from Patna. The investigation of the case ended in a charge-sheet under Sections 137(2)/87/64(2)(m)/70(1)/351(3)/127(2)/61(2) of the BNSS read with Section 6 of the POCSO Act against the petitioner.

5. It is submitted on behalf of the petitioner that the girl was already major, her age as disclosed in the written complaint has been intentionally done with a view to invoke the provision of the POCSO Act.

6. In such circumstances, the petitioner filed an application before the learned Trial Court for Ossification Test of the victim girl for determination of her age.

7. The said application was taken by the learned Trial Court and by the impugned order the application so filed on behalf of the petitioner was rejected. It was specifically held by the learned Court that in the case, both School Register as well as Birth Certificate of the victim girl were produced by the investigating officer with verification report regarding the genuineness of such documents. In such circumstances, the learned Trial Court held that there was no scope of resorting to the Ossification Test for determination of the age of the victim.

8. It is trite law that Ossification Test is resorted to in the case where there is no document with regard to the age of the victim or there are serious contradictions with regard to age. In the case at hand, the learned Court specifically held that for determination of age of victim girl, the investigating officer produced the Birth Certificate of the victim girl as well as the School Register which are sufficient document as proof for the purpose of determination of age of a person.

9. At the time of hearing, learned advocate for the petitioner submits that the Birth Certificate of the victim girl was prepared in the year 2025.

10. Be that as it may, the Birth Certificate so prepared in the year 2025 was produced on the basis of documents produced by the parents of the victim before the appropriate authorities. Besides that the School Register, by itself is sufficient document to establish the date of birth of the victim.

11. In such circumstances, I find no merit in the present revisional application. Consequently, C.R.R. 3542 of 2025 therefore is dismissed.

12. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Md. Shabbar Rashidi, J.)

Sandip (AR. CT.)