IN THE COURT OF THE SPECIAL JUDGE :: :: :: TINSUKIA

District: Tinsukia

Present: Sri P.J. Saikia,

Special Judge,

<u>Tinsukia</u>

POCSO Case No. 63 (T) of 2017 U/s 10 of POCSO Act

The State of Assam Complainant.
-Versus -
Sri Purna Urang
S/o- Lt. Junash Urang
R/o- Sankar T.E. No.3 Line
P.S- Doomdooma
District- Tinsukia, Assam Accused.
Appearance:
Sri B.L Agarwal,
Spl. Public ProsecutorFor the State
Munna Kr. Singh,
Advocate For the accused.
Date of Argument: 07/02/2019
Date of Judgment: 07/02/2019

J U D G M E N T

PROSECUTION CASE

- 1. It is alleged that on 28/09/2017, the accused enticed away the 9 years old girl and tried to commit rape upon her by removing her wearing apparels. It is also stated in the ejahar that Smti Dipali Rajput had saved the victim girl from being ravished by the accused.
- 2. During the period of investigation, the victim girl gave a statement u/s 164 Cr.PC, wherein she has stated that the accused had asked her to give bath to his daughter. The victim girl further stated that the accused took her to inside the house, where the accused had removed her pants and inserted his penis into her vagina. She has also stated that her grand mother had saved her.
- 3. During the period of investigation, the victim girl was subjected to medical examination. The report of the Doctor goes like this:-

"Whether oriented in time and space- Yes. Pulse - 90/min. BP - 100/70. Temperature - 98.5 F. Respiration rate - 18 per minute. No external injury seen. Labia majora, minora, fourchette and vulva- no injury. Hymen - intact. Vagina cervix-no injury. No spermatozoa detected. As per radiological examination, her age was between 8 to 10 years."

POINT FOR DETERMINATION

4. The only point for determination in this trial, is as to whether the accused had committed aggravated sexual assault upon the victim girl?

DECISION AND REASONS THEREOF

- 5. In order to prove the case against the accused person, the prosecution side has examined as many as seven witnesses, including the Police Investigating Officer and the Doctor, who had examined the victim girl at the time of investigation. The defence plea is total denial. I have carefully gone through the prosecution evidences.
- 6. Considering the nature of the case, I shall first take up the evidence of the victim girl. She has stated in her evidence that the accused had removed her pants and also removed his own pants. She has stated in her evidence that the accused tried to embrace her and at that time her grand mother arrived there and the accused went out of the room.
- 7. The witness Dipali Rajput is the grand mother of the victim girl. She has stated in her evidence that at the relevant time of occurrence, when she had gone to the house of the accused, she had seen that the accused was pushing her grand daughter beneath a bad and at that time, her grand daughter did not have her pants.
- 8. The remaining witnesses in this case are hearsay witnesses.
- 9. On scrupulous perusal of the prosecution evidences, I find that the victim girl made two different statements before two forums. In this court, she has stated that the accused tried to embrace her, after removing her pants; whereas in her statement u/s 164 Cr.PC, she has stated that the accused had inserted his penis into her vagina. The grand mother of the victim girl had seen that the accused was trying to push her grand daughter beneath a bad.

10. During cross examination, the victim girl has stated that her grand mother and the accused sometimes had quarrels; whereas Dipali Rajput, the grand mother of the victim girl has stated in her cross examination that she never had any quarrel with the accused.

11. Now, I have sufficient reasons to hold that the evidence of Smti Dipali Rajput and the victim girl failed to inspire confidence, as because, there are serious discrepancies therein. Under the circumstances, I hereby hold that the offence of aggravated sexual assault has not been proved against the accused beyond all reasonable doubts.

ORDER

12. In the result, the accused Purna Urang is found not guilty and accordingly he is acquitted from this case.

Given under my hand and seal of this Court on this 7th day of February, 2019.

(P.J. Saikia)

Special Judge

<u>Tinsukia</u>

Dictated & corrected by me.

Special Judge

Tinsukia

A P P E N D I X

PROSECUTION WITNESSES

1. PW1 - Dr. Ranjit Das

2. PW2 - Sri Basistha Tasa

3. PW3 - Smti Sibani Tasa

4. PW4 - Smti Dipali Rajput

5. PW5 - Sri Gautam Tassa

6. PW6 - Sri Krishna Bahadur Chetry

7. PW7 - Sri Thagish Doley, S.I.

PROSECUTION EXHIBITS

1. Ext.1- Medical report

2. Ext. 2- Radiological report with X-ray plates

3. Ext. 3- Ejahar

4. Ext. 4- Sketch map

5. Ext. 5- Charge sheet

DEFENCE WITNESS

None.

Special Judge

<u>Tinsukia</u>