

Present : Shri C. Das

Judge, Special Court Baksa, Mushalpur

### JUDGMENT IN SPECIAL POCSO CASE NO.50/2018(OLD NO.10/16)

u/s 4 of POCSO Act

State

versus-

1. Sri Nibhaj Mandal

2. Sri Dhan Biswas

@ Dhananjoy

...... Accused

#### Appearance:

For the State

: Mr. R. Chetry, Public Prosecutor, Baksa

For the accused : Mr. S. N. Sarma, R. Bhagabati, R. M. Deka, Advocates

Date of recording evidence: 6.8.18, 6.9.18, 1.11.18, 13.12.18

Date of argument

: 25.4.19

Date of judgment

: 9.5.19

## **JUDGMENT**

- 1. The case of the prosecution briefly, is that on 28.11.14, the complainant Ms. Rupali Hajong lodged a FIR before the In-charge of Kumarikata police out-post, alleging inter-alias that on 26.11.14 at about 6 pm., the accused persons kidnapped her minor daughter (her name is withheld) from her house and committed sexual assault upon her said daughter. Later on, the accused persons left her daughter near her house.
- 2. The police accordingly, registered the Kumarikata OP. GDE. No.459 dated 28.11.14 and forwarded the said FIR of the complainant to the Officer-in-charge of Tampulpur police station and took up the due process of the investigation. Hence, the Tamulpur PS. Case No.196/14 was registered in the above

Judge Spl. Co. Baksa Mushalour its sketch map, examined the witnesses and seized the birth certificate of the victim girl. Further, the I/O sent the victim for medical examination and recorded her statement u/s 164 of CrPC. The accused persons were arrested thereafter. At the end of the investigation, the I/O submitted the charge-sheet against the accused persons to face trial in the court.

- 3. The accused persons when appeared in the court, they were furnished with the copy of the case immediately. After hearing of the parties, the charge u/s 4 of Protection of Children from Sexual Offences Act (in short; the POCSO Act) was framed against the accused persons. The charge so framed, was read over and explained to the accused persons who pleaded not guilty and claimed to be tried.
- 4. The prosecution during the trial examined as many as, 8(eight) witnesses including the I/O and MO in support of its case. Thereafter, the statement of the accused persons u/s 313 of CrPC was recorded wherein, the accused persons denied all incriminating circumstances so appeared against them in the evidence. But the accused persons declined to adduce any evidence. The argument of the parties was heard at length and perused the evidence on record.

#### **POINT FOR DETERMINATION:**

5. Whether on 26.11.14 at about 6 pm., at the village; Agarkata Hajong-basti under Tamulpur police station, the accused persons committed penetrative sexual assault upon the victim girl who is the minor daughter of the complainant Ms. Rupali Hajong;

#### **DECISION AND REASON THEREFORE:**

6. Initiating the argument for the prosecution, learned Public Prosecutor submitted that it is a case of sexual assault upon a minor girl and normally such kind case, there is difficulty to get support of any eye-witness and as submitted further that the evidence of the victim girl is apparently, found reliable and she clearly implicated the accused persons for committing the offence of penetrative sexual assault upon her. That apart the evidence of the complainant shows that the victim girl is below 18 years of age and as such, she is a child within

Criminal Appeal (J) No. 17/2016 Dilip Deka vs. State of Assam wherein, it was observed that the defense has taken the plea, during the argument that the offense does not fall the purview pf the provisions of Section 3, and as such, the charge under Section 4 of the POCSO Act is incorrect. Section 4 of the POCSO Act is the penal provisions for commission of any of the offences enumerated in Section 3 of the POCSO Act. Section 3(b) of the POCSO Act, provides that, a person is stated to commit "penetrative sexual assault" if he inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of the child or makes the child to do so with him or any other person. The evidence of the victim is categorical to the effect that the accused/ appellant penetrated his left finger into her vagina repeatedly. Therefore, the offence committed by the accused/ appellant falls under the category of offence in Section 3(b) of the POCSO Act.

In the above judgment, the case as reported in (2017) 2 SCC 51 7. Himachal Pradesh vs. Sanjay Kumar was referred to wherein, it was observed that By now it is well settled that the testimony of a victim in cases of sexual offences is vital and unless there are compelling reasons, which necessitate looking for corroboration of a statement, the courts should find no difficulty to act on the testimony of the victim of a sexual assault to convict the accused. No doubt, her testimony has to inspire confidence. Seeking corroboration to a statement before relying upon the same as a rule, in such cases, would literally amount to adding insult to injury. The deposition of the prosecutrix has, thus, to be taken as a whole. Needless ti reiterate Criminal Appeal (J) 17/2016 that the victim of rape is not an accomplice and her evidence can be acted upon without corroboration. She stands at a higher pedestal than an injured witness does. If the court finds it difficult to accept her version, it may seek corroboration, from some evidence which lends assurance to her version. To insist on corroboration, except in the rarest of rare cases, is to equate one who is a victim of the lust of another with an accomplice to a crime and thereby, insult womanhood. It would be adding insult to injury to tell a woman that her claim of rape will not be believed unless it is corroborated in material particulars, as in the case of an accomplice to a crime. Why should the evidence of the girl or the woman who complains of rape or sexual molestation be viewed with the aid of spectacles fitted with lenses tinged with doubt, disabled or suspicion? The plea about lack of corroboration has no substance. Notwithstanding this legal position, in the instance case, we even find enough corroborative material as well, which is discussed herein above.

Judge Spl. Co. Baksa Mushalo

Courtor

Learned Public Prosecutor further placed reliance on the decision reported in Nivrutti Pandurang Kokate & ors. vs. State of Maharashtra (2008) 12 SCC 565 which was relied upon in the case of Himmat Sukhadeo Wahurwagh & ors. vs. State of Maharashtra (2009) 6 SCC 712 (FB) the Hon'ble Supreme Court held that Though it is an established principle that child witnesses are dangerous witnesses as they are pliable and liable to be influenced easily, shaped and molded, but it is also an accepted norm that if after careful scrutiny of their evidence the court comes to the conclusion that there is an impress of truth in it, there is no obstacle in the way of accepting the evidence of a child witness.

- 9. Similar to above, he relied the decision reported in State of **Himachal Pradesh vs. Asha Ram (2005) 13 SCC 766** which held that *the testimony* of the prosecutrix alone can form the basis of conviction if it inspires confidence and is found to be reliable.
- Apart from above, it was held in State of HP vs. Shree Kant Shekari 10. (2004) 8 SCC 153 that Sexual violence apart from being a dehumanizing act is an act is an unlawful intrusion on the right of privacy and sanctity of a female. It is a serious blow to her supreme honour and offends her self-esteem and dignity- it degrades and humiliates the victim and where the victim is a helpless innocent child or a minor, it leaves behind a traumatic experience. A rapist not only causes physical injuries but more indelibly leaves a scar on the most cherished possession of a woman it i.e. her dignity, honour, reputation and not the least her chastity. Rape is not only a crime against the person of a woman, it is a crime against the entire society. It destroys the entire psychology of a woman and pushes her into deep emotional crisis. It is a crime against basic human rights, and is also violative of the victim's most cherished of the fundamental rights, namely, the right to life contained in Article 21. The courts are, therefore, expected to deal with cases of sexual crime against women with utmost sensitivity. Such cases need to be dealt with sternly and severely. A socially senstised Judge is a better statutory amour in cases of crime against women than long clauses of penal provisions, containing complex exceptions and provisos. In the present case, the accused who was a teacher gratified his animated passions and sexual pleasures by having carnal knowledge of his student, a girl of tender age. Such offenders are a menace to civilized society.

Judge Spl. Court Baksa Mushalbur

11. Further in **Bodhisattwa Gautam vs. Subhra Chakraborty (1996) 1 SCC 490**, the Hon'ble Supreme Court held that *Rape is thus not only a crime against the person of a woman (victim), it is a crime against the entire society. It destroys the* 

entire psychology of a woman and pushes her into deep emotional crisis. It is only be her sheer will- power that she rehabilitates herself in the society which, on coming to know of the rape, looks down upon her in derision and contempt. Rape is, therefore, the most hated crime. It is a crime against basis human rights and is also violative of the victim's most cherished of the Fundamental Rights, namely, the Right to Life contained in Article 21. To many feminists and psychiatrists, rape is less a sexual offence then an act of aggression aimed at degrading and humiliating women. The rape laws do not, unfortunately, take care of the social aspect of the matter and are inept in many respects.

- 12. At the end, learned Public Prosecutor submitted that since the nature of offence in the case is similar to offence of rape, it can be dealt accordingly and the evidence of the victim girl in this case is inspired confidence to rely upon having no any elements of doubt and supported by medical evidence and as such, an order of conviction of accused persons can be passed according to the law.
- Per contra, learned counsel for the accused persons submitted that 13. the above rulings are not applicable in the present case in hand. He submitted that the complainant/informant is the mother of the victim girl but she was not an eyewitness of the occurrence. Moreover, the victim in her statement recorded u/s 164 of CrPC., categorically mentioned that she did not about the incident and as such, the evidence of the victim in the circumstances, cannot be relied upon and it requires corroboration. But there is no evidence to corroborate the version of the victim. Apart from that the prosecution lapsed to examine two sisters of the victim who were vital witnesses to the incident to place reliance on the version of the victim girl. Further, he submitted that most significant aspect of the case is that there is no support of medical evidence as to the claim of the prosecution against the accused person. He submitted that there are contradictions in the evidence of the prosecution witnesses which are confirmed by the I/O and as such, the dge Spl. Court prosecution could not prove its case against the accused persons beyond all Judge Mushaloureasonable doubt and hence, the accused persons are entitled to get the benefit of doubt.
  - 14. Apparently, the above law laid down that there is no bar to rely the evidence of the victim alone in cases of sexual offences subjected to condition that such evidence must inspire confidence for its reliability. Another aspect is that if sole testimony of the victim is not wholly reliable, then, corroboration of other

witnesses can be sought for to base a conviction against the accused. After hearing he above submissions of parties, it is pertinent to place on record the reproduction of evidence so recorded during the trial for the sake of convenience. The prosecution examined the complainant Smti. Rupali Hajong as PW1. She is the mother of the victim girl. She deposed in the court that on the fateful day at about 5.30 pm., when she returned to her home, she found that the victim girl was not present in the house. After her inquiry, she came to know from her another daughter namely; Aishamoni Hajnong that the accused Nibhaj Mandal came to her house and took away the victim girl. She searched for the victim girl but could not trace her out. After two days, one Gopal Hajong found the victim girl at his haystack, near his house. The victim girl was found in unconscious state. After getting the information, she called local persons and shifted the victim girl to the hospital. But the medical authority refused to provide medical treatment to the victim without police report. Hence, local public informed the police and accordingly, the police came to hospital and thus, medical treatment was provided to the victim girl. On her inquiry, the victim girl told her that the accused Nibhaj Mandal committed rape on her. Thereafter, she filed the FIR before the police vide Ext.1 and proved the same. The police sent the victim to record her statement in the court, according to her, the victim girl was 16 years of age at the time of occurrence. The police seized the birth certificate of the victim girl vide Ext.2 and she proved the same. Further she stated that the victim girl told her that the accused Dhananjay Biswas accompanied the accused Nibhaj Mandal.

15. In the cross-examination, PW1 stated that she filed the FIR after recovery of the victim girl. She did not mention the cause of delay in filing the Ext.1. The house of Gopal Hajong was on the eastern side of her house. She could not say who dropped the victim girl at the haystack near her house. The defence side in order to bring contradictions of her statement made before the police earlier suggested that she did not state that after recovery of the victim girl, she called local public and shifted the victim girl to hospital and the victim girl told her that the accused Nibhaj Mandal raped the victim and the accused Dhananjay Biswas accompanied the accused Nibhaj Mandal at the time of occurrence and she did not mention the name of girl who informed her that the accused Nibhaj Mandal took away the victim girl from her house.

16. PW2 is the victim girl and her name is withheld. She deposed in the court that on the fateful day at about 4.30 pm., the accused Nibhaj Mandal took her towards river side and committed rape on her. Hence, she became unconscious.

After two days, she recovered sense at the hospital. Her statement was recorded  $m{k}$ ide Ext.3 and she proved the same. According to her, the accused Dhananjay Biswas accompanied the accused Nibhaj Mandal.

- 17. In the cross-examination, PW2 stated that she was picked up on a bike by both accused persons. The accused Nibhaj Mandal called her to come out of her house. When she came out, the accused gagged her mouth and forcibly took her on the bike. At that time, her sister Bhumika was present in her house. The defence suggested to form contradictions over her previous statement that she did not state to the police earlier that the accused gagged her mouth and forcibly took her on a bike and the accused Nibhai Mandal raped her and she recovered her sense at Kumarikata hospital after two days which she denied. She could not say who recovered her from which place. Thus, it appears that the evidence of PW2 is corroborated by PW1.
- PW3 Sri Ratneswar Hajong stated that on the fateful day, in the 18. morning, he heard hue and cry at the house of PW1 and accordingly, he came to the house of PW1 and saw the victim girl lying on a haystack in senseless state. Hence, the victim girl was shifted to hospital. Later on, he heard that the accused persons took away the victim girl to the jungle and committed rape on her.
- 19. In his cross-examination, PW3 stated that he did not see the occurrence and from when the victim girl was missing from the house and how the victim girl was lying at the haystack. Apparently, the evidence of PW3 confines to recovery of the victim girl from a haystack in senseless condition.
- 20. PW4 Smti. Jonti Hajong deposed inter-alias that on the fateful day, at about 4.30 pm., the victim girl was missing from the house. On the next day morning, the victim was found lying unconsciously at her haystack. Local public rushed to the spot and shifted the victim to hospital. After recovery of sense, the victim told her that the accused Nibhaj Mandal took her and raped her. In her crossexamination, PW4 stated that she did not state to the police earlier that the Spr. Court accused Nibhaj Mandal took the victim girl away and committed rape on her. Similar to PW3, the evidence of PW4 discloses however, more of recovery of the victim girl at a haystack in senseless state after missing of the victim from the house.

bout 5 pm., PW1 came to his house and reported that the victim girl was missing from her house. Accordingly, he searched for the victim girl but he along with villagers could not trace her out for two days. On 28.11.14 at about 6.30 am he went to the house of PW1 to discuss about informing about the missing of the victim to the police. At that time, there was hue and cry outside and local villager Gopal Hajong reported that the victim girl was found lying at his haystack. Accordingly, he along with others went to the spot and found the victim girl lying on the haystack of Gopal in unconscious state. He brought the victim girl to home and shifted her to hospital. As per instruction of the doctor, he informed the police. The victim girl told him that the accused persons took her away but thereafter, she could not say anything about the incident and the accused persons committed rape on her.

- 22. In the cross-examination, PW5 stated that he could not say who dropped the victim at the haystack of Gopal. He denied the suggestion of the defense to contradict his previous statement that he did not state to the police earlier that PW1 reported him that the victim girl was missing from the house and that he went out in search of the victim but could not find her out and that on 27.11.14 when the victim could not be found, he advised the informant to report to the police and that he along with another brought the victim to her house and that on the direction of the doctor, he informed the police.
- 23. PW6 Dr. Dolly Gogoi was the medical officer and she deposed interalias in the court that on 28.11.14 at Civil Hospital, Nalbari, at about 12.10 pm., she examined the victim girl with reference to Kumarikata PO GDE No.459 dated 28.11.14 and found the following as;

On general examination: Teeth: 7/7-7/7, Height: 5 feet 7 inches approx. Secondary sex character well developed.

On pelvic examination: Vagina: vulva – healthy, Hymen- absent, Vagina-admits one finger. No injury mark on her private part and body. Advice- x-ray for age determination, Vaginal smear for sperm. Report: vaginal smear- no sperm seen under microscope.

X-ray: The skeletal age from radiological evidence is estimated below 18 years vide x-ray plate no.10643.

Impression: There is no evidence of recent sexual intercourse. The age of the victim is below 18 years. There is no injury on her private parts.

Judge Spl. Court Baksa Mushalou here is no dispute over the findings of the medical officer in respect of the injury of the victim girl. But the medical evidence of PW6 does not support the claim of the victim girl and PW1.

- 25. Apart from above, the evidence of PW7 Smti. Himani Hajong is that the sister of the victim girl reported her that the accused Nibhaj Hajong took away the victim girl. On 28.11.14 at about 7 am., the victim girl was found at a haystack of Gopal Hajong. In the cross-examination, PW7 disclosed that she did not see the occurrence. She denied the suggestion of the defense that she did not state to the police earlier that the sister of the victim girl reported her that the accused Nibhaj Hajong took away the victim girl. Her house is adjacent to the house of Gopal Hajong.
- 26. PW8 is Atowar Rahman who is the I/O of the case. He deposed interalias that on 28.11.14 while he was working at Kumarikata out-post, the In-charge of the out-post received a FIR from the informant and accordingly, the GDE No.459 dated 28.11.14 was lodged vide Ext.3(1) with the signature of the In-charge Sri Kandarpa Kr. Baruah. He was endorsed to investigate the case. The In-charge also, forwarded the said FIR to the Tamulpur police station. Accordingly, the O/C Tamulpur police station registered the Tamulpur PS. Case No.196/14 vide Ext.1((5) with the signature of then O/C Suresh Ch. Das. During the investigation, he examined the informant and he came to know that the victim was admitted at Kumarikata CHC and as such, he visited the said hospital and found the victim in sick condition and he examined the victim and sent her to SMK Civil Hospital, Nalbari for further medical treatment. He visited the place of occurrence and drew up its sketch map vide Ext.5 with his signature. He also, examined the witnesses at the place of occurrence. He arrested the accused Dhananjay Biswas but could not find out the accused Nibhaj Mandal. He sent the victim to record her statement u/s 164 of CrPC. He seized the birth certificate of the victim vide Ext.2 with his signature. On 29.11.14, he arrested the accused Nibhaj Mandal. He completed the preliminary investigation of the case and handed over the case diary to the Incharge Sri Kandarpa Kr. Baruah who submitted the charge-sheet against the accused persons vide Ext.6 with the signature.
- 27. In the cross-examination, the I/O stated further that the occurrence took place on the road. The place of occurrence was at a distance of 50 meters from the haystack. There were houses near the place of occurrence. The I/O contradicted that the informant PW1 did not state to him earlier that she called

Judge Spl. Court

lacal public after recovery of the victim and sent the victim for treatment at the  ${rak K}$ ospital and that the victim reported her that the accused Nibhaj Mandal raped her and that the accused Dhananjay Biswas accompanied the accused Nibhai Mandal at the relevant time. Further the I/O contradicted the version of the victim girl that she did not state to him earlier that the accused Nibhaj Mandal after gagging her mouth, took her on a motor-bike and committed rape on her and that after two days, she regained her sense at Kumarikata hospital. The I/O contradicted the version of Jonti Hajong that she did not state to him earlier that the accused Nibhai Mandal took away the victim girl and committed rape on her. Again, the I/O contradicted the version of Mukti Nath Hajong that he did not state earlier that on 27.11.14 he again searched for the victim girl but could not trace her out and he brought back the victim girl to her house with the help of another person and as per advice of the doctor, he collected the report after informing the police and victim girl informed local journalist about the incident. As regard to the witness Himani Hajong, the I/O contradicted that she did not state earlier that the sister of victim reported her about the incident.

28. After going through the evidence of the prosecution witnesses, it appears that PW2 is the sole victim of the occurrence. The evidence of PW1 is reported in nature as well as, discovery of offence of kidnapping of the victim from the house by way of missing. She was not an eye-witness of the occurrence. She searched for the victim girl after her missing from the house. She recovered the victim girl from the haystack of one Gopal Hajong in an unconscious state and accordingly, she shifted the victim to hospital with the assistance of PW5. It appears therefore, that what PW1 stated is nonetheless correct and she is corroborated by PW3, 4, 5 and 7 that she found the victim lying at the haystack of PW4 who is the wife of said Gopal Hajong. Moreover, the I/O found the victim girl at the local hospital which means that the victim was actually admitted in local hospital. Therefore, the contradiction as alleged by the defense about her omission in the previous statement u/s 161 of CrPC that she called local public after recovery of victim and shifted the victim to hospital, does not throw any significant doubt over her version. Apparently, the evidence of PW1, 3, 4, 5 and 6 relates to recovery of the victim girl from her house in version. from her house in unconscious state and accordingly, the victim was admitted in the local hospital for treatment before informing the police. Hence, the omission of PW1, 3, 4, 5 and 7 in their previous statement made u/s 161 of CrPC cannot be a significant contradiction to discredit their versions.

Thus, the evidence of PW1, 3, 4, 5 and 7 establishes the fact that on e fateful day, in the evening the victim was missing from her house and after two days, she was recovered from nearby haystack of PW4 in unconscious state and immediately, the victim was admitted in the local hospital for her medical treatment before informing the police. It is admitted fact that the above witnesses of the prosecution did not see the taking away of the victim by the accused persons on a motor-bike. After the missing, it is the victim who narrated further facts of the incident. She is the only witness who can throw light on that. According to the victim girl who is PW2 of the case, the accused Nibhaj Mandal came to her house and called her. When she came out, the accused gagged her mouth and took her on a motor-bike. At that time, according to PW1, the sister of PW2 was present at the house. But the prosecution did not examine the sister of PW2 to confirm it or not the accused persons gagged the mouth of PW2 since PW2 came out of her house at the call of the accused Nibhaj Mandal which indicates that PW2 knew the said accused prior to the occurrence and perhaps, had an intimate relationship. As such, the said fact discloses of consent of PW2 to go with the accused Nibhaj Mandal out of their previous relationship. In this respect, the sister of PW2 could have given real picture of the fact if she was examined in the case. Thus, it is a serious lapse of the prosecution for failure to examine such important witness of the occurrence. So an adverse is drawn u/s 114 [Illustraion- (g) ] of Evidence Act that if such witness was examined like the sister of PW2, she would have given evidence unfavourable to the prosecution. Hence, there casts doubt on the prosecution story.

- 30. Further, it appears that PW2 stated that after taking her away from her house, the accused Nibhaj Mandal committed rape on her. But the medical evidence does not corroborate the said claim of PW2. However, the medial evidence confirms undisputedly that the victim girl was below 18 years of age at the time of occurrence. Thus, PW2 was a child within the meaning of section 2(d) of POCSO Act. Since the charge in the case framed u/s 4 of POCSO Act, the evidence of PW2 indicates of offence as defined u/s 3 of the said Act punishable u/s 4 of the Act was committed against her by the accused Nibhaj Mandal.
- 31. The offence as indicates u/s 3 of POCSO Act is defined as penetrative sexual assault upon the child and reads that a person is said to commit "penetrative sexual assault" if -
  - (a) he penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a child or makes the child to do so with him or any other person;

Judge Spl. Court Baksa Mushalbur



- (b) he inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of the child or makes the child to do so with him or any other person; or
- (c) he manipulates any part of the body of the child so as to cause penetration into the vagina, urethra, anus or any part of body of the child or makes the child to do so with him or any other person; or
- (d) he applies his mouth to the penis, vagina, anus, urethra of the child or makes the child to do so to such person or any other person.
- 32. Thus, from the above provisions of law, it appears that the case of PW2 is come u/s 3(a) of POCSO Act as indicates in her evidence. Her evidence makes it clear that penetrative sexual assault was committed against her. In this respect, the medical evidence is best evidence to confirm her such claim. Since the evidence of PW2 is come under doubt since she came out of her house at the call of the accused Nibhaj Mandal without any hesitation indicates of previous relation exists between them. Hence, seeking corroboration from the medical evidence is proper to find out truth and because medial evidence would throw some indication of claim of PW2. But surprisingly, the evidence of PW6 clearly discloses of no such sexual assault cause to PW2. Therefore, it casts doubt over the version of PW2 if the accused Nibhaj Mandal committed penetrative sexual assault upon her. It appears that the accused Dhananjay Biswas accompanied the accused Nibhai Mandal at the relevant time of occurrence as stated by PW2. But his role is very negligible as far as the offence is concerned. Under the above facts and circumstances, there comes serious doubt over the version of PW2 if the offence u/s 4 of POCSO Act was committed against her by the accused Nibhaj Mandal and as such, there is no option but to allow benefit of doubt to the accused persons. Accordingly, the accused persons are given the benefit of doubt.

Judge Spl. Court Baksa Mushalpur

Under the above facts and circumstances of the case, the prosecution has not able to prove its case against the accused persons beyond all reasonable doubt. Accordingly, the accused persons are held not guilty u/s 4 of POCSO Act and they are acquitted and set at liberty. However, their bail bonds shall remain in force u/s 437-A of CrPC. The seized article shall be returned to the owner as claimed. Forward a copy of judgment to the District Magistrate, Baksa at Mushalpur u/s 365 of CrPC. Before parting with the case, it would be proper to mention here that the victim is entitled to get monetary compensation for the offence. Hence, this court recommends payment of proper monetary compensation to the victim as per Assam Vicitm Compensation Scheme by the DLSA, Baksa.



nform accordingly.

Given under the hand and seal of this court on this  $9^{\text{th}}$  day of May

Dictated and corrected by:

C. Das,

Julydan Spl. Court

Ju**dge spli Go**rt:-• B**aksa**MMslabur

Typed by:

P. Deka, Com. Typist



PW1 ... Smti. Rupali Hajong ... informant

PW2 ... the victim (name withheld)

PW3 ... Sri Ratneswar Hajong

PW4 ... Smti. Jonti Hajong

PW5 ... Sri Mukti Nath Hajong

PW6 ... Dr. Dolly Gogoi ... m/o

PW7 ... Smti Himani Hajong

PW8 ... Atowar Rahman ... I/o

# List of defence witness:

Nil

### List of documents exhibited:

Ext.1 ... the FIR

Ext.2 ... seizure list

Ext.3 ... statement of victim u/s 164 CrPC

Ext.4 ... medical report

Ext.5 ... sketch map

Ext.6 ... charge-sheet

Judge Spl. Court Budge Special Court Baksa Mushalour Baksa, Mushalour