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

District: Tinsukia

Present: Sri P.J. Saikia,

Special Judge,

Sri Naba Phukan

<u>Tinsukia</u>

# POCSO Case No. 67 (M) of 2017 U/s 4 OF POCSO Act

The State of Assam	Complainant.
-Versus -	
Sri Ranjit Gogoi @ Sum	a
S/o- Lt. Binud Gogoi	
R/o- Das para, IOCL (A.O	.D) Quarter No. 218
P.S- Digboi	
District- Tinsukia, Assam	Accused.
Appearance:	
Sri B.L Agarwal	
Spl. Public Prosecu	utorFor the Complainant

Advocate ...... For the accused.

Date of Argument: 31.03.2018

Date of Judgment: 31.03.2018

#### J U D G M E N T

#### **PROSECUTION CASE**

- 1. The prosecution case against the accused is that on the day of occurrence at about 5.30 P.M, the accused deceitfully took the 8 years old daughter of the informant into the jungle and thereafter he had put his penis into her mouth and also inserted his penis into her anus.
- 2. After registration of the case, the victim girl was subjected to medical examination. The doctor did not find any injury upon the person of the victim girl. However, the doctor opined that the victim girl was between 5-8 years of age.

#### **POINT FOR DETERMINATION**

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

#### **DECISION AND REASONS THEREOF**

4. In order to prove the case against the accused person, the prosecution side has examined as many as three witnesses. The witnesses examined in this case are the victim girl and her parents. I have carefully gone through the prosecution evidences. The defence plea is total denial.

- 5. The first witness in this case is the mother of the victim girl. She has stated that on the day of occurrence, at about 5.30 P.M, she along with her husband had returned home from market. She has stated that she did not find her daughter in the house; therefore, she searched the locality by shouting her name. The mother has stated that on hearing her voice, her daughter came out from the jungle situated behind her house. The mother has also stated that her daughter informed her that the accused had inserted his penis into her mouth and also inserted it into her anus.
- 6. During the cross examination, the mother of the victim girl has stated before the defence counsel that her daughter is not mentally healthy and she forgets many things and that is the reason why she could not pursue her studies properly. The mother of the victim girl has admitted that whatever her daughter told her might not be true.
- 7. The other witness in this case is the father of the victim girl. His evidence is similar to that of the mother of the victim girl. The father of the victim girl has also stated before the defence counsel that his daughter might be telling lies.
- 8. The victim girl has stated before the defence counsel that the accused took her to the jungle and laid her on the ground. According to the victim girl, the accused thereafter beat her with a stick and also pressed her neck. The victim girl has stated that when she had heard the voice of her mother, she immediately ran away from the place of occurrence. Before the defence counsel the victim girl has stated that the accused did nothing to her.

9. In this case, the victim girl gave her statement u/s 164 Cr.P.C, wherein she supported the prosecution case against the accused. But, after going through the evidence of the victim girl, I find that she spoke something else in this court. Thus, I have two statements before me. In my considered opinion, the evidence of the victim girl failed to inspire confidence to the effect that she is not a reliable witness. The victim is the only eye witness to the occurrence. Since her evidence failed to inspire confidence and since she is found to be unreliable, I find that the evidence of the other witnesses have lost its relevance. Now, I have reasons to hold that the prosecution has miserably failed to prove the offence against the accused beyond all reasonable doubts.

#### **ORDER**

10. That being the position, the accused Ranjit Gogoi @ Suma is found not guilty and accordingly the accused is acquitted from this case.

Given under my hand and seal of this Court on this 31st day of March, 2018.

Dictated & corrected by me.

Special Judge

Tinsukia (P.J. Saikia)

Special Judge

<u>Tinsukia</u>

## A P P E N D I X

## **PROSECUTION WITNESSES**

1. PW1 - Smti Dipamoni Handiquq

2. PW2 - Smti Monisha Handique

3. PW3 - Sri Pronab Handique

# **PROSECUTION EXHIBITS**

1. Ext.1- Ejahar

2. Ext. 2- Seizure list

3. M.Ext.1- The seized chain of bead.

### **DEFENCE WITNESS**

None.

Special Judge

<u>Tinsukia</u>