IN THE COURT OF THE SPECIAL JUDGE, BARPETA

<u>Special POCSO Case No. 108/2018</u> (Arising out of barpeta P.S. Case No. 1338/17)

U/S 8/17 of POCSO Act

PRESENT: Sri Chatra Bhukhan Gogoi, AJS,

Special Judge, Barpeta.

Charge framed on:- 16.05.2019

State of Assam

- Vs -

Aklima Begum......Accused

Date of Recording Evidence on – 20.12.2019

Date of Hearing Argument on – 20.12.2019.

Date of Delivering the Judgment on – 20.12.2019.

Appearance:

Advocate for the State----- Mrs. P. Das, Learned Addl. P.P. Advocate for the Accused----- Abdul Mannan, Learned Advocate.

JUDGMENT

- 1. The prosecution case, in brief, is that, on 03.08.2017 one Ajijul Ali lodged an FIR in Barpeta P.S. alleging inter alia that on 14.07.17 accused No 1 named in the FIR visited her house and took his daughter to her residence and thereafter she left the house leaving her in her house with accused No 3 who tried to commit rape on her, but due to hue and cry accused fled away. Later on, the victim girl informed the matter to him following which he filed this case.
- 2. Based on information, police registered a case being Barpeta P.S. case No 1338/17 u/s 17/18 of POCSO Act and investigated the case.
- 3. On completion of investigation police laid the charge sheet against accused Aklima Begum and Sanidul Islam u/s 120(B) IPC R/W section 18 of POCSO Act. However, Sanidul was declared juvenile and case against Aklima was proceeded.

- 4. In the course of time when accused appeared this court vide order date 16.05.19 framed charge u/s 8/17 of POCSO Act was framed. The particulars of the offence on being read over and explained accused pleaded not guilty and claim trial.
- 5. During the course of trial, the prosecution examined only 2 witnesses namely the informant and the alleged victim girl. However, considering the quality of the evidence of the star witnesses namely the informant and the alleged victim giving an opportunity of hearing to the learned Addl. P.P. further prosecution evidence stands closed.
- 6. Examination of accused u/s 313 Cr.P.C. is dispensed with in view of lack of implicating materials.
- 7. The plea of the accused is total denial of the prosecution case. As such, on being asked accused declined to adduce defence evidence.

8. Now point for determination ;-

.1. Whether on 14.07.17 accused intentionally aids the accused Sanidul to commit illegal act on the victim girl in her residence as alleged?

9. <u>Discussion, Decision and reasons for such decision</u> :-

I have heard the learned lawyers appearing for both sides and also carefully scanned the prosecution evidence available on record.

- 10. PW-1 who is the father of the alleged victim depose that the incident occurred about 2 years back when his daughter went to the house of maternal aunt where accused abuse and insulted her. In his cross examination he stated that he lodge the FIR after about 20 days of the date of incident and prior to filing the FIR there was a dispute with the accused person. PW-2 the alleged victim on the other hand stated that she went with accused Sanidul as a result of her affairs with him, but he did nothing against her and whatever she stated before Magistrate was not on her own mind but under influence of her parents.
- 11. Now, from the evidence available on record particularly the evidence of the alleged victim girl PW-2 it transpires that no such incident took place as alleged

because according to her there was no abuse and maltreatment with her by accused. In fact she has spoken even a single word against the present accused showing her complicity in any manner whatsoever. The evidence of PW-1 also bears no significants as he also did not speak anything against the present accused. As it appears from the evidence of PW-1 that the present case is the result of enmity between the informant and accused. In the mouth of two prosecution witnesses none of the ingredients of the offence u/s 8/17 of POCSO Act has not been established for sustaining conviction for the said offences.

- 12. This being the position, this court is of the considered view that prosecution failed to establish the case against accused Aklima Begum u/s 8/17 of POCSO Act as there was absolutely no materials emerged for having found the accused person guilty for sustaining conviction for the aforesaid offences. Therefore, this court has no option but to acquit the accused Aklima Begum from the offence u/s 8/17 of POCSO Act on the ground of insufficient evidence and set her at liberty forthwith.
- 13. The terms of bail bond of accused person is extended for a period of 6 (six) months from to-day as provided u/s 437(A) Cr.P.C.
- 14. Let a copy of the judgment be forwarded to the learned District Magistrate, Barpeta as provided in section 365 Cr.P.C.
- 15. Let the case record be consigned to record room after completing the formalities.
- 16. Given under my hand and seal of this Court on this 20th day of December, 2019, at Barpeta.

Dictated & Corrected my me

Sd/-(Sri C.B. Gogoi) Special Judge, Barpeta. Sd/-(Sri C.B. Gogoi) Special Judge, Barpeta.

APPENDIX

- 1. The prosecution has examined the following 2 nos. of witnesses:-
 - PW-1 = Azizul Islam, the informant.
 - PW-2 = Ambiya Begum, the alleged victim.
- 2. The prosecution has exhibited the following document:
 - Ext. 1 = is the FIR.
 - Ext. 1(1) = is the signature of informant.
 - Ext. 2 = is the statement of the victim u/s 164 Cr.P.C.
 - Ext. 2(1) & 2(2) = are the signatures of the victim girl.

Sd/-

(Sri C.B. Gogoi) Special Judge, Barpeta.