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

District: Tinsukia

Present: Sri P.J. Saikia,

Special Judge,

Advocate

<u>Tinsukia</u>

## **POCSO Case No. 50 (T) of 2017**

### U/s 4 OF THE POCSO Act

..... For the accused.

Date of Argument: 03.04.2018

Date of Judgment: 03.04.2018

### 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 pm, the 15 years old victim girl of this case along with her cousin Tinku Karuwa were searching for a cow in a tea garden. At that time, the accused appeared there and pounced upon the victim girl. She was dragged into the tea garden. Tinku Karuwa had seen the occurrence and therefore he shouted for help. Tinku Karuwa was about 10 years old at that time. Finally the accused managed to over power the victim girl and had forceful sexual intercourse with her.
- 2. During the period of investigation, the victim girl was subjected to medical examination. The doctor did not find any injury upon the private parts of the victim girl. The victim girl and Tinku Karuwa was also produced before a magistrate for recording their statement u/s 164 Cr.PC.

#### POINT FOR DETERMINATION

3. The only point for determination in this trial, is as to whether the accused had 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 the victim girl, her mother and her cousin Bikash Karuwa @ Tinku Karuwa. The defence plea is total denial. I have carefully gone through the prosecution evidences.
- 5. In this case, the victim girl has stated that while she and her cousin Tinku Karuwa were searching for a cow inside a tea garden, they met the accused there. The victim girl has stated that the accused became angry on seeing them, on the ground that they were loitering inside the tea garden in dark. The victim girl has stated that the accused beat her and therefore she ran away from that place. She has stated that her parents also beat her on that issue. According to the victim girl, a friend of her named Deuki, who was a member of Local Student Union formally took her to the police station and she was made to file an ejahar. The victim girl has stated that she did not remember what she had stated in her statement u/s 164 Cr.PC.
- 6. Thus, the victim girl ha resiled from her earlier statement made before the police.
- 7. Similarly Bikash Karua @ Tinku Karuwa also stated in his evidence in similar fashion. He has stated that the accused slapped him and also slapped the victim girl, on the ground that they were unnecessarily loitering in the garden after dark. The second witness also resiled from his earlier statement made before the police. The third witness is the mother of the victim girl. She also supported her daughter and the other witness. In this way the mother of the victim

girl also became hostile, as she has also resiled from his earlier statement made before the police.

8. On careful perusal of the prosecution evidences, I find that the victim girl and the eye witness have failed to support the case of the prosecution. Even the mother of the victim girl also failed to support the prosecution case. Thus, I have reasons to hold that the prosecution side has failed to prove the offence against the accused person beyond all reasonable doubts.

#### **ORDER**

9. That being the position, the accused Sri Bharat Tanti @ Puchi is found not guilty and accordingly the accused is acquitted from this case.

Given under my hand and seal of this Court on this 3rdth day of April, 2018.

Dictated & corrected by me.

Special Judge

<u>Tinsukia</u>

(P.J. Saikia)

Special Judge

<u>Tinsukia</u>

## A P P E N D I X

# **PROSECUTION WITNESSES**

1. PW1 - Smti Bharati Karuwa

2. PW2 - Smti Surajmoni Karuwa

3. PW3 - Sri Bikash Karuwa

## **PROSECUTION EXHIBITS**

None

# **DEFENCE WITNESS**

None.

Special Judge

<u>Tinsukia</u>