

SPECIAL POCSO CASE NO.21/2019.

U/S 8/10/12 of the POCSO Act.
(Arising out of Uriamghat P.S. case No.30/18)

State

-VS-

Md. Abdul Ali

...... Accused person.

Present: Sri K. Hazarika, AJS,

Special Judge,

Golaghat.

Appearance :-

For the State : Mr. P. Bora, Special P.P. For the accused : Mr. B. Chutia, Advocate.

Argument heard on : 21.09.19.

Judgment delivered on : 21.09.19.

J U D G M E N T

1. The prosecution case in a nutshell is that on 22.05.18, one Md. Jinnat Ali lodged an ejahar in Uriamghat P.S. stating inter alia that on 19.05.18, the accused person took his 9 year old daughter to his house and at night committed sexual assault on his said daughter and when forcefully attempted to commit rape on her and grabbed her on the bed, his daughter being helpless shouted and saved herself and the accused person by showing his said daughter, obscene videos on his mobile phone committed sexual assault on her.

- 2. On receipt of the ejahar, police registered a case being Uriamghat P.S. case No.30/18 U/S 8 of the POCSO Act, 2012 and entrusted SI D.J. Bora to investigate into the case. After completion of investigation, police submitted charge sheet against the accused person U/S 8/10/12 of the POCSO Act, 2012.
- 3. When the accused person appeared before the Court, necessary copies were furnished to him and after hearing both the sides, charges U/S 8/10/12 of the POCSO Act was framed against the accused Abdul Ali which was read over and explained to him to which he pleaded not guilty and claimed to be tried. Thereafter, the trial commenced.

POINTS FOR DETERMINATION:

- (i) Whether accused Abdul Ali on 19.05.18 at night at No.2 Dayalpur Gaon under Uriamghat P.S. committed sexual assault upon the victim, the 9 years old daughter of Md. Jinnat Ali in his house and thereby committed an offence punishable U/S 8 of the POCSO Act?
- (ii) Whether the accused person on the aforesaid date, time and place committed aggravated sexual assault upon the victim and thereby committed an offence punishable U/S 10 of the POCSO Act ?
- (iii) Whether the accused person on the aforesaid date, time and place committed sexual harassment upon the victim by showing her obscene videos in his mobile phone and thereby committed an offence punishable U/S 12 of the POCSO Act ?

DISCUSSION, DECISIOIN AND REASONS THEREOF:

4. To bring home the charge against the accused person, the prosecution side examined as many as 4(Four) witnesses in the case and they are as follows:-

(i)Md. Jinnat Ali(Informant/father of the victim)- PW1.(ii)Victim- PW2.(iii)Mustt. Rubina Khatoon- PW3.

(iv)

Mustt, Umi Habiba

- PW4.

- 5. The defence plea is of total denial. The defence did not adduce any evidence in the case. The accused person was not examined U/S 313 Cr.P.C. as there was no incriminating evidence against him.
- 6. I have heard the arguments advanced by the learned counsels for both the sides. I have also gone through the entire evidence on record.
- 7. At the very outset, I would like to scrutinize the evidence on record for the purpose of adjudicating the charges against the accused person.
- 8. P.W.1(Informant) stated in his examination-in-chief that about 1 year, 3 months back, at about 10/11 pm, there was an altercation between him, his daughter(victim) and the accused person and out of misunderstanding, he lodged an ejahar against the accused person in Uriamghat P.S. During cross-examination, P.W.1 stated that except altercation, no other occurrence had taken place between him, his daughter(victim) and the accused person.
- 9. P.W.2(victim) stated in her examination-in-chief that about 1 year, 3 months back, there was an altercation between her, her father, Jinnat Ali and the accused person and out of misunderstanding her father, Jinnat Ali lodged an ejahar in Uriamghat P.S. During cross-examination, P.W.2 stated that except altercation, no other occurrence had taken place between her, her father, Jinnat Ali and the accused person.
- 10. P.W.3 and P.W.4 stated in their examination-in-chief that they did not know anything about the occurrence.
- 11. From the aforesaid evidence on record it transpires that none of the witnesses in the case had implicated the accused person with the alleged occurrence as stated in the ejahar. Both P.W.1 (informant) and P.W.2 (victim) testified in their evidence that an altercation had taken place between them and the accused person on the day of occurrence and nothing else. Both P.W.1 and P.W.2 confirmed in their cross-examination that except altercation, no other occurrence had taken place between them and the accused person. Besides that, the independent witnesses of this case namely, P.W.3 and P.W.4 expressed their complete ignorance about the alleged occurrence. Thus, it is seen that none of the

witnesses in this case supported the contents of the ejehar and the prosecution case as a whole.

- 12. In view of the aforesaid discussions and reasons, I find and hold that prosecution could not establish the charges U/S 8/10/12 of the POCSO Act against the accused person. As such, accused Abdul Ali is acquitted and set at liberty forthwith. The bail bond of the accused person shall remain in force for a period of 6 months from today.
- 13. Given under my hand and seal of this Court on this 21st day of September, 2019.

Dictated & corrected by me:

(K. Hazarika) Special Judge, Golaghat. (K. Hazarika) Special Judge, Golaghat.