IN THE COURT OF THE SPECIAL JUDGE :::::::::: HAILAKANDI

Special (POCSO)(T 1) Case No. 02/2018.

U/S - 376 of the IPC read with Sec. 4 of the POCSO Act.

State

- Versus -

Saidur Rehman Barbhuiya

Accused.

PRESENT: Shri D. Bhattacharjee,
Special Judge, Hailakandi.

Appearance and particulars :-

For the State :- Sri U.K. Da

:- Sri U.K. Das, Ld. Public Prosecutor.

For the accused person

:- Smti. N. Debnath, Ld. Advocate.

Date of recording evidence :- 29.09.2018.

Date of recording statement u/s 313, CrPC :- 04.10.2018.

Date of Argument 04.10.2018.

Date of Judgment 04.10.2018.

IUDGMENT

The prosecution case, in brief, is that on 29.01.2018 the informant cum victim lodged an ejahar with the O/C, Katlicherra Police Station alleging that her father i.e. the accused Saidur Rehman with a view to marry another woman of their neighboring area, assaulted her mother and drove her away from his home after giving talak. On 27.01.2018 at about 4 PM the accused pressurized the victim to bring the

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said woman but she did not listen the accused, rather, she raised protest and on the following night at about 2 AM the accused, putting the victim under the fear of death, committed rape on her.

- 2. On receipt of the ejahar, the same was registered as Katlicherra Police Station case No. 21/2018 under Sec. 4 of the POCSO Act and during investigation, police visited the place of occurrence, drew up rough sketch map thereof, recorded statements of witnesses, got the victim medically examined and also got her statement recorded under Sec. 164, CPC and after completion of investigation submitted charge sheet against the accused person Saidur Rehman Barbhuiya under Sec. 4 of the POCSO Act.
- 3. On appearance of accused person Saidur Rehman Barbhuiya, copies of relevant materials in terms of Sec. 207 of the CrPC were furnished to him.
- After hearing the Ld. Public Prosecutor and the Ld. Defence Counsel and after perusal of materials available on record, having found sufficient grounds for presuming that the accused person has committed the offence, the formal charges have been framed against the accused person Saidur Rehman Barbhuiya under Sec. 376 of the IPC read with Sec. 4 of the POCSO Act. The charges so framed were read over and explained to the accused person, to which he pleaded not guilty and claimed to be tried. Hence, the trial.
- the victim cum informant of the case. Thereafter, on submission of Ld. Public Prosecutor and the Ld. Defence Counsel, the prosecution evidence was closed. The accused person is examined under Sec. 313, CrPC, wherein he has denied the allegations levelled against him by the prosecution. The defence did not adduce any evidence.



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6. Heard argument of both sides. Perused the record.

7. POINTS FOR DETERMINATION :-

(i) Whether the accused person in the intervening night of 27.01.2018 and 28.01.2018 at about 2 AM committed rape upon the victim cum informant, as alleged?

(ii) Whether the accused person committed penetrative sexual assaulted upon the victim cum informant, as alleged?

DISCUSSION, DECISION AND REASONS THEREOF:

informant, has deposed that in the month of January,2018 his father, the accused, drove out her mother from his house assaulting her very brutally and thereafter, she and her mother went to Katlicherra Police Station and consulted a Clerk, who prepared the FIR and asked her to state before Magistrate and Police accordingly and to resolve the difference between her parents, she filed the case. Ext. 1 is the FIR lodged by her and Ext. 1(1) is her signature. Her statement was recorded by Magistrate vide ext.2 and Exts. 2(1) and 2(2) are her signatures. She was medically examined. The victim has further deposed that her father is innocent and he is a very good person and due to misunderstanding, the case was filed and she has got no allegation against her father.

In cross examination, she has stated that at the relevant time, she was aged 18 years old.

9. In the instant case, the only witness i.e. the victim cum informant in her evidence, being the star witness, has made the fact clear that on the relevant day her father drove out her mother after assaulting her brutally and thereafter, she and her mother went to Katlicherra PS and she lodge the case only to resolve the difference

SPECIAL JUDGE HAILAKANDI

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Magistrate on being tutored. That apart, the victim has vividly stated that her father, the accused, is innocent and he is a very good person and she has got no allegation against her father. The victim has not implicated her father in the evidence, rather, she has given clean chit to her father, the accused, stating that only to resolve the different between her mother and father, she field the case, I do not find any concrete reason to hold the accused person guilty for commission of the offence, alleged.

- **10.** Accordingly, it can be safely held that the prosecution failed to prove its case against the accused person beyond all reasonable doubt.
- 11. The accused person Saidur Rehman Barbhuiya is acquitted of the offence charged under Sec. 376 of IPC read with Sec. 4 of the POCSO Act. Set him at liberty forthwith.
- 12. The bail bond of the accused stands discharged.
- 13. Send a copy of this judgment to the Ld. District Magistrate, Hailakandi.
- The judgment is delivered today, on this the 4th day of October,2018.

Special Judge. Hailakandi.

Dictated and corrected by me :-

SPECIAL JUDGE HAJLAKANDI

Special Judge, Hailakandi,

Dictation is Anksoland transcribed by Baharul Islam Choudhury,

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Appendix :-

Oral evidences :-

PW. 1, the victim.

Documentary evidences :-

Ext. 1, the FIR,

Ext. 2, Statement of the victim recorded under Sec. 164, CrPC.

Defence did not adduce any evidence.

Special Judge, Hailakandi

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