IN THE COURT OF THE SPECIAL JUDGE, MORIGAON

POCSO Case No. 41/2018 U/S 4 of the POCSO Act

Present : Mr. P. Das

Special Judge, Morigaon, Assam.

State of Assam

-VS-

Sh. Mintu Das Accused

Date of Charge : 21.05.2019.

Date of Argument : 09.08.2019.

Date of Judgment : 03.09.2019.

Appearance for the Parties

Advocate for the State : Mr. A. Kalam, Ld. P.P.

Advocate for the Accused: Mr. P. R. Bora, Ld. Advocate.

JUDGMENT

- 1. The prosecution case in brief is that an ejahar was lodged on 06.12.2015 at the Dharamtul police station by the informant alleging inter alia that on 04.12.2015, the accused Mintu Das had taken the minor daughter of the informant making false promise to marry her and committed penetrative sexual assault upon her at night and on the next day he kept the victim in a shop and fled away from the place. On the basis of the said ejahar, Dharamtul PS Case No. 123/2015 was registered under section 366(A) IPC read with section 4 of the Protection of Children from Sexual Offences Act, 2012.
- **2.** After completion of investigation into the case, the same was charge sheeted against the accused. Subsequently, vide order dated 21.05.2019, charge was framed against the accused under Section 4 of the POCSO Act, 2012. The

charge upon being read over and explained to the accused was denied by him, leading to commencement of the trial.

3. At the trial the prosecutrix was examined as PW-1. Due to the nature of the evidence adduced by the prosecutrix and on the prayer of the learned prosecution at that stage, the prosecution evidence was closed. Thereafter, the accused was examined under section 313 of the Cr.P.C. The defence did not adduce any evidence.

4. **POINTS FOR DETERMINATION**

Whether the accused Mintu Das is guilty of committing an offence punishable u/s 4 of the Protection of Children from Sexual Offences Act, 2012?

DISCUSSION, DECISION AND REASONS THEREOF

- **5.** Heard learned public prosecutor for the State and learned defence counsel for the accused person. Perused all the relevant materials from the record.
- 6. In her evidence as PW-1, the prosecutrix has stated that the informant is her mother and that the accused Mintu Das is presently her husband. She further stated that the incident had taken place about four years prior to her deposition and that at that time she was aged about 20 years. She further stated that she had a love affair with the accused person pursuant to which she had eloped with him. That, initially her parents had not agreed to their relationship and her mother lodged the instant case upon the accused. She further stated that subsequently, she and the accused got married and their relationship was also thereafter accepted by her parents. She stated that after lodging of the case she was taken before the Magistrate, where her statement was recorded. She proved her statement as Exhibit 1 and her signatures thereon as Exhibit 1(1), 1(2), 1(3). She also proved as Exhibit 2, the ejahar lodged by her mother and the signature of her mother thereon as Exhibit 2(1), which she knew. The prosecutrix was not cross-examined by the learned defence and that her cross-examination was declined.

7. Upon perusing the aforesaid testimony of the prosecutrix, I find that apart from stating that the accused is presently her husband, she has stated about her being aged 20 years at the time of the incident and she has also not implicated the accused person in anyway. There is nothing in the testimony of the prosecutrix regarding commission of any sexual offence or any other offence upon her by the accused.

8. Upon appreciation of the aforesaid testimony of the prosecutrix, I come to the considered view and finding that there is no evidence to come to any finding of guilt of the accused person.

9. Consequently, the prosecution case fails and the accused is entitled to be acquitted.

ORDER

- **10.** On the basis of the evidence and other relevant materials on record of the case, the accused Mintu Das stands acquitted. The accused, if in detention, shall be set at liberty forthwith, if, not wanted in any other case.
- **11.** His bail bonds and sureties stand discharged.
- **12.** A copy of this judgement and order shall be sent to the learned District Magistrate Morigaon in compliance with Section 365 of the Cr.PC.

Given under my hand and seal on this the 3rd day of September, 2019.

Dictated and corrected by me

(P. Das) Special Judge Morigaon, Assam

(P. Das) Special Judge Morigaon, Assam

APPENDIX

Prosecution Witnesses:

PW-1 : Prosecutrix.

Defence Witness:

Nil.

Prosecution Exhibits:

1. Ext. 1 : Section 164 Cr.PC statement of the prosecutrix.

2. Ext. 2 : Ejahar.

Defence Exhibits:

Nil.

Dictated and corrected by me

(P. Das) Special Judge Morigaon, Assam

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