IN THE COURT OF THE SPECIAL JUDGE, UDALGURI, ASSAM

Present : Smti. S. Bora,

Sessions Judge, Udalguri.

Reference : Special (POCSO) Case No. 15/2017.

Complainant : State

Vs

Accused : Kartik Chouhan

Charges: U/S 341 IPC R/W Sec. 8 of POCSO Act.

Dates of hearing : 13.2.2018

Date of Judgment : 13.2.2018.

For the State : Mr. P. Baskey, Public Prosecutor.
For the accused : Mr. M.C. Narzary, Advocate.

<u>JUDGMENT</u>

In this case accused Kartik Chouhan put for trial for allegation of charge U/S 341 IPC R/W Sec. 8 of POCSO Act.

- 2. The various fact leading to institution of this case, according to FIR, in brief, is that on 12.10.16 at about 5.30 PM while Sangita Chouhan, aged about 12 years, coming from market of Ranthali Kamala Chowk towards home accused restrained her in the road and tried to commit rape on her. Hence this prosecution case.
- 3. The FIR was filed by informant, Putuli Chouhan before the O/C, Kalaigaon PS. On receipt the ejahar the O/C, Kalaigaon P.S. registered the case vide Kalaigaon P.S. case No. 143/16 U/S 341 IPC R/W Sec. 8 of POCSO Act. After completion of usual investigation the O/C, Kalaigaon P.S. sent up the case for trial against the accused U/S 341 IPC R/W Sec. 8 of POCSO Act.

- 4. On being production of the accused before this court after hearing both parties charge framed U/S 341 IPC R/W Sec. 8 of POCSO Act. Particulars of the charge is read over and explained to the accused, to which he pleaded not guilty and claims to be tried.
- 5. To substantiate the case, prosecution examined as many as three witnesses which include the informant and the victim. Ld. Counsel for prosecution submitted to close the evidence as the statement of informant and victim, who are the vital witness in this case stated nothing about the incident. So it would be futile to summon the other witnesses.

On close scrutiny of the record including the statement of witnesses recorded so far, I think prosecution case would not develop even if examine the other remaining witnesses.

It has been held in S. Rama Reddy Vs. R. Ramy Reddy, reported in AIR (SC) (2008) 2006 that speedy trial is the fundamental right of the accused person.

Considering the aforesaid view coupled with the aforesaid mandate of the Hon'ble Apex Court, prosecution evidence is closed.

Examination of accused persons U/S 313 Cr.P.C. is dispensed with.

6. I have also heard argument put forward by ld. Counsel for both sides.

POINTS FOR DETERMINATION

- 7. The point for decision in this case are-
- (i) Whether the accused on or about 12.10.16 at about 5.30 P.M. at Ranthali under Kalaigaon PS wrongfully restrained victim Sangita Chouhan?
- (ii) Whether the accused on the same day, time and place committed sexual assault upon victim Miss Sangita Chouhan, aged about 12 years?

DECISIONS, DISCUSONS AND REASONS FOR DECISION

- 8. To arrive at a judicial decision, let me appreciate the evidence on record.
- 9. PW3, Miss Sangita Chouhan is the victim in this case. She deposed that she knows the accused person. The occurrence took place about 2 years ago. On the day of occurrence while she went to shop the accused scolded her. Out of anger she informed her mother and her mother lodged FIR. She was produced before the Magistrate for recording statement. Ext.2 is the statement and Ext.2(1) is her signature.

In her cross-examination she stated that accused did nothing with her. She does not want to proceed with the case.

- 10. PW.1, Smti. Putuli Chouhan, who is the informant and mother of the victim deposed that she knows the accused person. He is her relative. Victim Sangita Chouhand is her daughter. At the time of occurrence she was 13 years old. The occurrence took place about 1 year ago. On the day of occurrence she sent her daughter to a shop. When her daughter was returning home the accused called her. Since it was dark she started to cry. Accused did nothing with her daughter. Due to misunderstanding she lodged the ejahar. She does not want to proceed with the case.
- 11. PW2, Satan Chouhan deposed that he knows nothing about the incident.
- 12. These much is the evidence of prosecution.
- 13. In this case, as discussed above, the PW3, who is the victim of this case stated clearly that accused did nothing with her. Similarly, PW1, informant cum mother of the victim stated that on the day of

occurrence she sent her daughter to a shop. When her daughter was returning home the accused called her. Since it was dark she started to cry. Accused did nothing with her daughter. Due to misunderstanding she lodged the ejahar. She does not want to proceed with the case. There is no any iota of evidence to show that accused committed the crime. Even there is no any circumstance to infer the accused in the alleged charges.

14. As such, I have, therefore, no hesitation to hold that accused is entitled to get benefit of doubt. As such, acquit him and set at liberty forthwith.

Given under my hand and seal of this court on this the 13th day of February, 2018 at Udalguri Court.

(S. Bora) Special Judge, <u>Udalguri, BTAD</u>.

Dictated and corrected by me and each page bears by signature.

(S.Bora) Special Judge, <u>Udalguri, BTAD</u>.