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

District: Tinsukia

Present: Sri P.J. Saikia,

Special Judge,

<u>Tinsukia</u>

# POCSO Case No. 58 (T) of 2018

### U/s 10 of the POCSO Act

-Versus -
Sri Azad Boraik,
S/o- Lt. Suren Boraik
R/o- Khobang T.E. Simor Line
P.S- Doomdooma
District- Tinsukia, Assam Accused.
Appearance:
Sri B.L Agarwal,

Spl. Public Prosecutor ......For the State

The State of Assam ...... Complainant.

Sri Naba Phukan,

Advocate ...... For the accused.

Date of Argument: 27/06/2019

Date of Judgment: 27/06/2019

### J U D G M E N T

#### **PROSECUTION CASE**

- 1. On 12/10/2018, Robina Karmakar had lodged an ejahar before police, alleging that on that day at about 6 pm, the accused Azad Boraik had tried to take her 8 years old daughter to inside Bojrangpur T.E. in order to commit illegal sexual act upon her. The informant has also stated that when the victim resisted and shouted for help, the accused had beaten her. The informant has stated that the victim girl managed to escape from the clutches of the accused and had returned home.
- 2. During the period of investigation, the victim was subjected to medical examination. She was also sent to the court for recording her statement u/s 164 Cr.PC. The victim girl stated before the Magistrate that on the day of occurrence, the accused had sent her to a shop, but she did not comply with his request and went to play in the field. The victim girl has stated that the accused arrived there, forcibly took her to the garden and beat her. The victim also stated before the Magistrate that at that time, the accused was drunk and after beating her, he ran away from that place.

#### **POINT FOR DETERMINATION**

3. The only point for determination in this trial, is as to whether the accused had committed aggravated sexual assault upon the victim girl?

#### **DECISION AND REASONS THEREOF**

- 4. In order to prove the case against the accused, the prosecution side has examined as many as two witnesses, including the victim girl. The defence plea is total denial. I have carefully gone through the prosecution evidences.
- 5. Here in this case, the mother of the victim girl was examined first by the prosecution. She has stated in her evidence that on the day of occurrence, her daughter had gone to the house of the accused as the mother of the accused had asked her to come there. The witness has stated that after sometime, her daughter returned home and at that time, she was crying. The victim girl has told her mother that the accused had beaten her. The mother of the victim girl has stated that she had lodged an ejahar before police and the ejahar was written by members of students organization and she had put her thumb impression in the said ejahar.
- 6. During cross examination, the mother of the victim girl has stated that the ejahar was never read over to her, before she had filed it before police.
- 7. The victim girl has stated in her evidence that on the day of occurrence, when she had gone to the house of the accused, after being called by his mother, the accused had sent her to purchase *bidis* from the shop and she brought *bidis* from the shop accordingly. After handing over the *bidis* to the

accused she went to play, but the accused followed her and beat her.

8. After going through the prosecution evidence, it is clear on the face of the record that none of the witnesses have supported the charge of aggravated sexual assault upon the victim girl. Therefore, there is no necessity for an elaborate discussion of the prosecution evidence. I, therefore hold that the prosecution side has failed to prove the offence against the accused beyond all reasonable doubts.

#### ORDER

9. In the result, the accused Azad Boraik is found not guilty and accordingly the accused is acquitted from this case. Presently, the accused is in judicial custody, so he be set at liberty forthwith.

Given under my hand and seal of this Court on this 27th day of June, 2019.

(P. J. Saikia)

Special Judge

Tinsukia

Dictated & corrected by me.

Special Judge

Tinsukia

# A P P E N D I X

### **PROSECUTION WITNESSES**

1. PW1 - Smti Robina Karmakar

2. PW2 - Smti Rita Karmakar

### **PROSECUTION EXHIBITS**

None

# **DEFENCE WITNESS**

None.

Special Judge

<u>Tinsukia</u>