Present :- Mr. R.A. Tapadar, AJS

Date: 18.02.2020.

SPECIAL CASE NO. 28 of 2019

(Under Section 376(3) I.P.C. R/W Sec. 4 of POCSO Act)

The State of Assam

-Versus
Md. Sohidur Rahman Mollah

Mu. Soriidur Kariiriair Moliair

.....Accused Person.

APPEARANCE

For the State......Mr. Sudhaman Ch. Ray, learned Addl.P.P.

For the DefenceMr. Ekram Hussain, learned Advocate.

Date of framing charge : 10-04-2019

Evidence recorded on :-12.02.2020

Argument heard on :-18.02.2020

Judgment delivered on :- 18.02.2020 .

JUDGMENT

- 1. Md. Sohidur Rahman Mollah (hereinafter referred to as "accused") is before this court facing accusation for the commission of offence U/s. 376(3) I.P.C. and Sec.4 of POCSO Act.
- 2. The prosecution case, in brief, is that the informant, Jiadur Rahman lodged an F.I.R before the Officer-in-Charge of South Salmara Police Station on 16.12.2018 and *inter-alia* stated that his sister aged about 16 years old was having love affair with the accused person for last 2 years. The accused

person on promise of marriage had physical relation with his sister. The informant stated that on 16.12.18 at about 2-00 P.M, the accused person taking advantage of the absence of his family members, called his sister to his house and forcibly raped her. The informant stated that when his sister refused to come from the house of the accused person; the accused person assaulted his sister and threatened to cut her throat with a blade. The informant further stated that when her sister made hue and cry, the neighbours came and rescued his sister from the hands of the accused person. The informant prayed to take action against the accused person.

- 3. Based on the F.I.R, police registered South Salmara P.S. Case No.349/2018 U/s.420/376(3)/307 I.P.C R/W Sec. 4 of POCSO Act. and entrusted the case to S.I Nayan Kumar for investigation. During the investigation, accused person was arrested and remanded him to judicial custody. After completion of investigation, police submitted charge-sheet U/s.376(3)/323 I.P.C R/W Sec.4 of POCSO Act against the accused person.
- 4. The learned Special Judge, Dhubri transferred the case to this court for trial. Accordingly, charges U/s.376(3) I.P.C and Sec. 4 of POCSO Act were framed against accused person. The charges U/s.376(3) I.P.C and Sec.4 of POCSO Act were framed against accused person. The charges were read over and explained to the accused persons to which the accused persos pleaded not guilty and claimed trial.
- 5. The prosecution in order to establish the guilt of the accused person

examined as many as two witnesses including the victim. The defence chooses not to lead any evidence. The accused person was examined U/s.313 Cr.P.C. The accused person pleaded his innocence.

6. Heard both sides.

7. **POINTS FOR DETERMINATION**:

- (i) Whether on 16.12.18 at about 2-00 P.M at village Salertak, the accused person committed rape of the minor sister of the informant and thereby committed an offence punishable U/s.376(3) I.P.C.
- (ii) Whether the accused person on the same date, time and place committed sexual assault to the minor sister of the informant and thereby committed an offence punishable U/s.4 of POCSO Act.

8. **DISCUSSION, DECISION AND REASONS THEREOF**:

I have gone through the evidence on record and considered the submissions of learned counsel of the accused person and the learned Addl.P.P.

9. PW-1, the informant in his evidence stated that his sister had love relation with the accused person and on suspicion, he lodged the FIR. PW-2, the victim has also stated in her evidence that the incident took place about one year ago and she had love relation with the accused person and on suspicion, her elder brother lodged the FIR. The evidence on record does not disclose the ingredients of the offences, for which the accused person is

charged with.

10. Accordingly, the accused person is acquitted from the charges U/s.376(3) I.P.C R/W Sec.4 of POCSO Act and set at liberty, forthwith,

The bail bond of the accused person shall remain in force for a period of six months in terms Section 437A Cr.P.C.

Given under my hand and seal of this court on this 18^{th} day of February, 2020.

Dictated & Corrected by me

Mr. R.A. Tapadar, AJS

Special Judge, Dhubri Special Judge, Dhubri

APPENDIX

A. **Prosecution Witnesses:**

PW- 1 Md. Jiadur Rahman

PW-2 Ms. 'X'

B. **Documents Exhibited by Prosecution:-**

Ext-1 Ejahar

C. Defence Witnesses :- Nil

D. **Defence Exhibit** : Nil

Mr. R.A. Tapadar, AJS Special Judge,Dhubri