IN THE COURT OF THE SPECIAL JUDGE :::::: NALBARI

Present: **Smti S. Bhuyan Special Judge Nalbari.**

Spl (P) CASE NO: 19/19

u/s- 376 IPC r/w section 4 of the POCSO Act.

State of AssamComplainant

-Vs-

Sri Parimal Das.

S/O-Sri Anil Das.

R/O, Vill-Rangaphali.

PS-Ghograpar, Dist-Nalbari......Accused person

Appearance :-

For the prosecution : Mr. K. Sarma, Special PP
For the defence : Mr. P. Sarma, Advocate.

Date of institution of the case : 04/04/19

Date of framing charge : 29/05/19

Date of evidence : 01/07/19, 02/07/19,03/07/19,

04/07/19, 05/07/19, 06/07/19,

Statement of accused recorded : 22/07/19

Date of Argument : 08/08/19

Judgment Delivered : 19/08/19

JUDGMENT

1. The case of the prosecution as revealed from the ejahar lodged by Suruj Ali is that on 2/4/19 accused parimal Das over phone called his daughter Miss 'X' and Miss 'Y' at about 7 pm and kidnapped Miss 'X' and Miss 'Y' and committed rape with Miss 'X' in side a pond for whole night. Hence, the case.

- 2. Dhamdhama O.P. received the ejahar on 03/04/19 and forwarded the ejahar to Ghograpar PS and registered Ghograpar PS case no.125/19 and lynched investigation. I/C Dhamdhama OP after making GD entry no.54/19 dated 04/04/19 entrusted SI H. Rabha with the investigation. During investigation, he visited house of informant, recorded statement of the informant, and visited the house of the accused and brought him to the police station and on next day after medical examination he was produced before the court. In the morning of 4/4/19 I/O visited the place of occurrence, drawn sketch map of the place of occurrence, recorded the statement of the witnesses, victim and produced the victim for medical examination and then produced her before the court to record her statement u/s-164 Cr.P.C. and seized school certificate vide Ext-6 seizure list. After completion of investigation submitted charge sheet against the accused Parimal Das u/s-376 IPC and section 4 of the POCSO Act.
- 3. On receipt of the charge sheet cognizance taken and and after furnishing copies to the accused, framed charge u/s-376 IPC read with section 4 of the POCSO Act against the accused Parimal Das and when charges are read over and explained to the accused he pleaded not guilty and stood for trial.
- 4. In order to prove the charge against the accused person, prosecution altogether adduces evidence of 11 no's of witnesses including informant, victims, I/O and M/O of the case and exhibited 8 no's of documents. PW-1, Miss 'X', PW-2, Suraj Ali, PW-3, Abed Ali, PW-4, Jabe Ali, PW-5 Miss 'Y', PW-6, Nepal Das, PW-7 Gopal Dey, PW-8 Hajrat Ali, PW-9, Arabinda Devnath, PW-10 Hrithviraj Rabha (I/O), PW-11 Dr. Urmi Devi Choudhury (M/O). Ext-1, statement of victim Miss 'X' recorded u/s-164 Cr.P.C, Ext-2 ejahar, Ext-3 statement of Miss 'Y' recorded u/s-164 Cr.P.C, Ext-4, Sketch map, Ext-5 Charge-sheet, Ext-6 seizure list, Ext-7 is the Medical report, Ext-8 X-Ray report. After closures of the evidence of the prosecution, statement of the accused Parimal Das recorded u/s-313 Cr.P.C and accused plea is total denial however he declined to adduce evidence in support of his plea of denial.

POINTS FOR DETERMINATIONS

5.

- (i) Whether accused Parimal Das on 02/04/19 at Naherbari village under Ghograpar PS committed rape upon Miss "X"?
- (ii) Whether accused on 02/04/19 at Naherbari village under Ghograpar PS committed penetrative sexual assault upon Miss 'X', as defined under section 4 of the POCSO Act and she is under the age of 18 years on the date of incident?

Argument

- 6. Learned Special Public Prosecutor submitted prosecution beyond all reasonable doubt able to establish the charge of section 4 of the POCSO Act and 376 IPC against the accused Parimal Das.
- 7. Refuting the same learned defence counsel made submission that this is a concocted story made against the accused only to put pressure on accused and his family members to sale the land of accused which is present near the house of informant. He further submitted that there is contradiction in the statement of the two sisters and if both the sisters are present in the place of occurrence the other sister not witnessing the incident of rape that took place in the field as alleged by the prosecution is not believable story and this is happened only because this is purely made out case against the accused to pressurize him to transfer the land in favour of informant. Ld counsel further contended that the alleged victim of the case and her sister did not disclose any fact to their parents for whole day as revealed from the statement of the informant and that again show that this is a made out case and because of this there was no story disclosed by the alleged victim and her sister to their parents and actually both the girl are at their home. Learned counsel further submitted that near the field there is a residence but none have got any hint of the incident nor heard any hue and cry of the girl and statement of the alleged victim is not reliable and statement

of other witnesses with that of the statement of the informant and victim are contradicted to each other. Learned counsel further submitted the victim is not a minor and there is always error in the radiological estimated age and if two years is added then victim is above 18 years of the age.

Evidence

- PW-1 Miss 'X' is the victim of this case. She stated incident 8. took place on 02/04/19 at about 7PM in the filed when she came out from her house and was on road accused Parimal Das took her in the field present on the back (west) side of their house, removed her dress and committed rape on her, she sustained pain when accused committed forceful sexual intercourse (rape) on her and she shouted. When she was present on the road, her sister Miss 'Y' was also present with her and when accused took her to the field her sister followed her to the field. When she shouted her sister came near to her and whole night herself, accused Parimal and her sister spent in the field and on the next morning at about 8 AM, they came home. When her parents asked her where she went on the previous night she disclosed the incident to them. Thereafter, her father took her to the police station to lodge the case and her father lodge the ejahar. After lodging the ejahar, police recorded her statement, produced her before the doctor at SMK civil hospital for medical examination and also produced before the learned Magistrate to record her statement. Magistrate recorded her statement u/s- 164 CrPC vide Ext-1. Thereafter, I was given in custody of her parents.
- 9. In cross she stated she knows accused Parimal from her childhood days and he is a resident of contiguous village. On the date of incident she and her sister was going towards the house of her grandmother and on their way they met accused Parimal. At that time no other person was present on road. Houses of other persons stands near the place where she and her sister met accused Parimal. In between the field and the place where they

met accused Parimal, 4/5 house present. she did not raise alarm when accused Parimal took her to the field. she, her sister and accused all reached field together. She and her sister did not shout and raise alarm in the field. When accused committed rape on her, her sister was present at that place. The house of Pura (nickname) is present near the field where incident took place. Her sister did not come to the house while incident took place with her in the field. Police recorded her statement on the date of lodging the ejahar and on the next date she made statement before the learned Magistrate.

She denied the defence suggestion that she did not make statement before police and Magistrate that accused forcefully took her in the field and accused Parimal did not commit rape on her on the date stated by her.

She also denied that she offered love proposal to Parimal and Parimal refused her proposal telling that they are from different religion and on the date of incident after meeting accused on the road after talking with him she returned to her home and stayed at her house at night.

It is also denied by her that her father put condition before accused family that her father would withdraw the case if they give them cash amount of Rs. 1,80,000/- (one lakh eighty thousand) or 2 Bighas of land and their family member pressured on accused family to transfer their land present near their house.

10. PW-2 Suraj Ali is informant of the case and he is the father of the vicitm. His evidence is that the incident took place 3 months ago in the Assamese "chot' month. On the date of incident his daughter Miss 'X' and Miss 'Y' were missing from the evening. He made search for his daughters, but did not find them at night. In the morning he found his both daughters in the field. Whole day he asked his daughters Miss 'X' & Miss 'Y' what happened to them. They did not disclose the incident initially, in the evening they disclosed that accused Parimal did "beya kam" (bad work) with his daughter Miss 'X'. Thereafter, he went to police station and lodged ejahar. Police arrested accused Parimal after lodging the ejahar vide Ext-2. Police recorded his statement, recorded SpI (P) Case No:19/19

statement of his victim daughters. Thereafter, his victim daughter was produced before the doctor at SMK civil hospital Nalbari and then she was produced before the Magistrate for recording her statement. After recording statement of his victim daughter, she was given in their zimma.

- 11. In cross he stated ejahar was written by a petition writer present in the police station. On the night of incident he along with his brother and other family members made search for his missing daughters Miss 'X' & Miss 'Y' and while searching his daughters he shouted loudly by calling their names Miss 'X' & Miss 'Y'. The place where he found his daughter in the next morning is not far from his house and near this place about 4/5 residents are present. He was not present at his house when his daughter came out from the house. Reaching home he asked about his daughter to his wife and his wife replied they have gone to the house of their grandfather. At a very little distance from his house accused family possess land and in that way they have visiting terms with the house of accused family.
- 12. He denied the defence suggestion that he wanted to take land of the accused family; he has demanded Rs. One lakh eighty thousand or 2 bighas of land from the accused family and told them that if they pay me Rs. one lakh eighty thousand or 2 bighas of land then he will withdraw the case and to take the land of accused, he lodge the case against the accused by using his daughters. It is also denied by him that accused did not commit bad work upon his daughter Miss 'X'.
- 13. PW-3, Abed Ali stated in his evidence he knows the informant and his daughter Miss 'X' as they are his closed neighbours. He knows the accused present in the court as because he hails from his neighbouring village. About three months back at night parents of Miss 'X' and Miss 'Y' came to his house called him and told him that their daughters Miss 'X' and Miss 'Y' missing from their house and asked him if they come to his house. He told them they are not come to his house. Accordingly, he went with SpI (P) Case No:19/19

them made search for Miss 'X' and Miss 'Y' in the neighbours house but they are not found in the neighbours house and on the next morning he saw both the sisters coming from the side of field. But he did not ask them.

- 14. PW-4 Jabe Ali deposed same tune as to that of PW-3. PW-4 also deposed that when parents of victim and he asked them where from they came, they told that accused Parimal Das took them. In cross he stated that he did not make statement before the police as stated by him before the court.
- 15. PW-5 Miss 'Y' sister of the victim. Her evidence is that Victim Miss 'X' is her elder sister and he knows the accused Parimal as he hails from their neighboring village. The incident took place 3 months ago at night. On the date of incident when she and her elder sister walking on road accused Parimal called and took them to the field under a shed present in the field. After that accused asked her to go to a little distance and thereafter accused committed "beya kam", accused touched breast of her elder sister Miss 'X', removed her dress and committed rape ("koti mare") upon Miss 'X'. In the next morning accused left the place and thereafter they came to their home. When they reached home their parents asked them what happened. For the whole day they did not disclose the incident as accused Parimal gave them threatening to finish their lives if they disclosed the incident. At night they (herself and her sister) disclosed incident to their parents. Thereafter, her father lodge the case. Police recorded her statement. Thereafter, police produced her before the Magistrate where she made statement before the Magistrate u/s- 164 CrPC vide Ext-3.
- 16. In cross she stated on the date of incident they met accused Parimal when they were walking on village road. It is also stated accused called her elder sister Miss 'X' and she immediately went with the company of accused and she followed them to their destination. Her sister Miss 'X' and accused proceeded far from her and thereafter she followed them to meet them. In between the Spl (P) Case No:19/19

- filed i.e. place of occurrence and her house, 4/5 other persons houses stand. she did not see when accused Parimal committed "beya kam" with her sister Miss 'X'. Police recorded her statement on the date of lodging ejahar and thereafter also.
- 17. She denied the defence suggestion that she did not make statement before police that accused took them under the shade present in the field. It is also denied by her that she did not make statement before police as well as before the learned Magistrate that accused touched breast of her elder sister and undressed her and that accused committed rape on the date of incident. It is also denied by her that she did not make statement before police that they did not disclose incident to their parents in the whole day (day time) out of threatening given to them by accused Parimal to finish them. It is also denied that she deposed falsely that for the whole night they stayed in the field with accused and on the date of incident they reached home on the same night after walking; and her father wanted to purchase the land of Parimal present near their house which Parimal and his family refused to sell and therefore her father using her sister Miss 'X' lodged this false case against accused Parimal. It is also denied by her that accused Parimal did not take them to the field and that accused Parimal did not commit rape ("koti mare") on her victim sister.
- 18. PW-6,Nepal Das stated in his evidence that he knows the informant and his daughters. He knows the accused present in the court as because he hails from his village. He heard from his wife and co-villager that one incident took place between Sahitun and accused Parimal but he was not present at his house at the time of incident.
- 19. PW-7 Gopal Dey stated in his evidence that he knows the informant but he does not know the accused. He came to know about the incident after 15 days from his wife that one boy and girl spent the night in the paddy field under tin shed.

- 20. PW-8, Hajrat Ali deposed in his evidence that after two months of the incident while he was returning home after selling fish he heard from the village women that accused Parimal taken away informant's daughter Bogi and committed rape on her. In cross he stated that he did not make statement before the police that he heard from the village women that accused Parimal taken away Bogi and committed rape on her.
- 21. PW-9, Arabinda Devnath deposed in his evidence that he has no knowledge about the incident.
- 22. PW-10 Hrithviraj Rabha S.I(P) deposed in his evidence while he was working at Dhamdhama Out Post on probation under Ghogrpar PS, O/C Ghograpar PS entrusted him to investigate the Ghograpar PS Case No.125/19 u/s-376 IPC r/w Section 4 of the POCSO Act. The ejahar of the case is received by in-charge Dhamdhama Out Post from one Suraj Ali on 3 /4/19 at 11:30 pm and In-charge Dhamdhama Out Post after making GD Entry No.54/19 dated 4/4/19 forwarded the ejahar to O/C Ghograpar PS for registering a case and O/C Ghograpar PS after registering the same entrusted him to investigate the case. He visited the place of occurrence at 12.30 am at the intervening night of 3 /4/19 and 4/4/19 and he went to the house of informant Suraj Ali at village Naherbari and recorded the statement of the complainant. He went to the house of accused and found him at his house brought him to the police station and after medical examination he produced him before the court. On the 4/4/19 he went to the place of occurrence which is village field, drawn sketch map and recorded the statement of the witnesses. He also recorded the statement of the victim and produced her for medical examination. Thereafter, he produced the victim before the learned Magistrate for recording her statement u/s-164 CrPC and seized one school certificate of the victim in presence of witnesses vide Ext-6. After completion of the investigation he submitted charge-sheet vide Ext-5 u/s-376 IPC and Section 4 of the POCSO Act.

- 23. In cross he stated he did not seize under garment of victim girl. He recorded statement of all the witnesses between 4/4/19 & 5/4/19. He stated that witness Miss 'X' did not make statement before him that accused Parimal forcefully took her in the field and removed her dress. He also stated that Miss 'Y' did not make statement before him that they did not disclose the incident to their parents for the whole day (day time) out of threatening given to them by accused Parimal and also accused touched breast of her victim sister and undressed her and taken them under the shed.
- 24. PW-11, Dr. Urmi Devi Choudhury is the M/O. On 04/04/19 she examined Sahitun Begum, aged 15 years, D/o- Suraj Ali of village Naherbari under Ghograpar PS who was brought by Suraj Ali, father and escorted by WHG-Namita Deka of Ghograpar PS in connection with Ghograpar PS Case No. 125/19 u/s 376 IPC read with section 4 of the POCSO Act. She examined the patient in presence of Bhanita Kalita female attendant

History disclosed by patient:

She went with a known boy on 02/04/19 at around 7 PM and physical relation occurred with him in a paddy field at night one time on force and they went to police station at around 12.00 midnight on 03/04/19.

General condition of the victim good.

Her menarche was on 13 years, menstrual cycle was regular and LMP 03/04/19 at around 3 PM.

On genital examination, genital organs healthy, vulva healthy, hymen torn but healthy. On examination two fingers can be introduced difficultly. Her vagina cervix healthy, uterus anteverted normal size. Presence of venereal disease not seen.

Evidence on injury on her body or private parts not seen. Evidence of struggling of wearing clothes not seen. Evidence of stains examining fingers stains with menstrual blood.

Radiological examination skeletal age is estimated above 16 years and below 18 years.

On laboratory investigation vaginal swab- no sperm seen, USG lower abdomen normal study.

On the basis of physical, radiological and laboratory investigation, no recent evidence of physical relation or assault is seen.

DISCUSSION, DECISION AND REASON THEREOF:

- The prosecution allegation against the accused Parimal is 25. that he had committed rape, penetrative sexual assault on the victim Miss 'X' on 2/4/19 who is below 18 years of age. Ext-2 is the ejahar. PW-2 is the informant of this case. He lodged ejahar on 4/4/19 before Dhamdhama police out post and Dhamdhama police out post on receipt of the ejahar vide Dhamdhama O.P GD Entry No.54/19 dated 4/4/19 at 12-30 am forwarded the ejahar to O/C Ghograpar police station and O/C, Ghograpar PS received the ejahar on 4/4/19 at 1 pm, registered Ghograpar PS Case No.125/19 u/s-376(3) and Section 4 of the POCSO Act. In the ejahar the date of writing the ejahar is mentioned on 3/4/19. PW-10 is the I/O of the case. He stated on 4/4/19 he was working as S.I(P) on probation at Dhamdhama Out Post under Ghograpar police station and In-charge of Dhamdhama Out Post on receipt of ejahar on 3/4/19 at 11-30 pm made GD Entry No.54/19 dated 4/4/19 and forwarded the ejahar to O.C Ghograpar Police Station.
- 26. In Ext-2 ejahar PW-2, informant stated that his both the daughter (name change) Miss 'X' victim and Miss 'Y' the younger sister of Miss 'X' came home at about 5 am on 3 /4/19. PW-1 is the victim Miss 'X'. She disclosed she and her sister came home in next morning i. e on 3/4/19 at 8 am and when her parents asked where she was on the previous night she disclosed the incident to them. Thereafter her father took her to the police station to lodge the case. If statement of PW-1, Miss 'X' is minutely read then it reveals that she disclosed the incident soon she came home at 8 am. PW-2 informant, the father of Miss 'X' victim and Miss 'Y' deposed whole day he asked his daughter Miss 'X' and Miss 'Y' what happened to them, they did not disclose the incident and in

the evening disclosed that accused Parimal did 'Beya kam' with Miss 'X'. Thereafter he went to police station to lodge the ejahar, but statement of PW-10, I/O of the case and perusal of the case diary it is seen that ejahar was not lodged by informant in the morning when Miss 'X' and Miss 'Y' came home or in the evening when according to PW-2 Miss 'X' disclosed the incident to them. Ejahar was lodged at midnight on the intervening night of 3 /4/19 & 4/4/19.

27. PW-2 in Ext-2 ejahar stated that accused called his daughter Miss 'X' and Miss 'Y' over phone and then he forcefully took them in the jungle which is 100 meters distance from their house. When Miss 'X' and Miss 'Y' came out from their house on receiving accused call. From the jungle accused took them to a little distance and kept them inside a pond for the whole night and did indecent act with Miss 'X' and at that time his youngest daughter was present at a little distance. It is further stated that for the whole night they searched for his daughter and on next morning at about 5 am both came home and coming to know about the incident lodged the ejahar. While adducing evidence PW-2, informant of the case stated his daughter Miss 'X' and Miss 'Y' are missing from the evening. He made search for his daughter but did not find them and in the morning he found his both daughter in the field. On asking his daughter did not disclose the incident and in the evening told that accused Parimal did 'beya Kam' with his eldest daughter Miss 'X'. In cross stated at night while he was searching his daughters at night along with his brother and other family members he shouted loudly by calling their names Miss 'X' & Miss 'Y' and place where he found his daughter in the next morning is not far from his house and 4/5 residents present near the place of occurrence. In cross he further stated he was not present at home when his daughter came out and coming to home, he could know from his wife that his daughter went to the house of their grand mother. In cross again stated the accused family possessed land at a little distance from his house and they have a visiting terms with the accused family for that reason.

- 28. PW-1 Miss 'X' the victim of the case stated that on the date of incident on 2/4/19 when she came out from her house on road accused Parimal took her in the field which is present at he back side of their house. At this place accused removed her dress and committed rape on her and she sustained pain when accused committed forceful sexual intercourse with her and she shouted. Her evidence showed when she was present on the road her sister Miss 'Y' also present with her and her sister followed when accused took her to the field and her sister Miss 'Y' went near to her when she shouted and for the whole night she, her sister and accused spent in the field and at 8 am they came.
- 29. PW-5 is the youngest daughter of PW-2 and youngest sister of PW-1. Her evidence is that when she and her sister Miss 'X' was walking on the road accused called them took them to the field under a shed, accused asked her to go a little distance and accused committed 'beya Kam' rape with her sister Miss 'X', removed dress of Miss 'X', touched breast of her sister Miss 'X' and in the morning accused left the place. Thereafter they came to their house and at night they disclosed the incident to their parents. When statement of PW-1 victim, PW-2 the informant and PW-5 sister of the victim is perused it is seen that PW-2 informant was not present when his daughter PW-1 & PW-5 came out from the home. From the statement of PW-2 it is revealed that he learn from from his wife his both daughters went to their grand-mother's house. PW-2 deposed that he made search for his daughter for the whole night but he did not whisper a single line that he went to the house of grand-mother to search for his daughter. Place of occurrence is just 4 to 5 house from his houses.
- 30. PW-1 stated they reached home in the next morning at 8 am. PW-5 did not state the exact time and only stated that in the morning they came home. PW-2 informant in his ejahar stated his daughter reached home at 5 am. While adducing evidence PW-2 stated it was he who brought Miss 'X' and Miss 'Y' to home from the field. PW-3 & PW-4 deposed that on the next morning when they went to the house of PW-2 they noticed Miss 'X' and Miss 'Y'

coming from the side of the field that means the statement of PW-2 he found his daughter in the field is contradicted by PW-1, PW-3, PW-4 & PW-5. PW-1 & PW-5 evidence pointed both of them are present together. They stated that when accused took Miss 'X' in the field Miss 'Y' followed them and accused asked her to stay a little distance when accused committed 'beya kam' with her sister Miss 'X'. In cross PW-5 Miss 'Y' stated that she did not witness accused committing 'beya kam' with her sister and this witness by 'beya kam' means commission of rape. The cross-examination of PW-5 further pointed that when accused called her sister, her sister immediately went with the company of the accused. PW-1 in her chief and in her cross-examination did not state that accused used force on her to go with him in the field. In cross stated that she did not raise alarm when accused took her sister to the field and she stated that she, her sister and accused reached field together but her sister stated she was lagging between them and therefore, she followed them to meet them. The cross-examination of PW-1 Miss 'X' further revealed that she did not shout nor raise any alarm in the field and near the place of occurrence 4/5 houses present and nearby house is the house of Pura. Her evidence and evidence of PW-5 pointed that Miss 'Y' did not go to the house when incident took place with Miss 'X' and her house is about 12/13 houses after the place of occurrence. The cross of PW-1, PW-2, & PW-5 shown that near the place of occurrence there is 4/5 residents presence. Their house is not far from the place of occurrence. PW-5 claimed that she was present at the time of incident and accused asked her to stay at a little distance while committing 'beya kam' (sexual intercourse with Miss 'X'). Her evidence pointed that she was not given any threatening nor accused given threatening to Miss 'X'. Accused was not armed with weapon. There was no restraining. PW-5 was not tied or prevented to remove from the place of occurrence. Under such circumstances when PW-5 was present at he place of occurrence and when she understood what does sexual intercourse means and when her house is very near from the place of occurrence and house of 4/5 others residents are present she could have rush to those houses or to her own house to seek relief from the other to Spl (P) Case No:19/19 14 of 17

save her sister if accused has committed rape upon her sister. Thus, the story of penetrative sexual assault does not inspire confidence.

- 31. The statement of PW-11 pointed as per estimated radiological age Miss 'X' is above 16 years and below 18 years. Radiological age is not accurate age and settled principle of law is that there is error of 2 to 3 years in the estimated radiological case. Here in the case if 2 to 3 years is added on either side, maximum is above 18 years age. It is also settled rule that where there is error in the estimated radiological age benefit goes in favour of the accused.
- 32. The statement of PW-5 revealed PW-1 gos with accused and at that time there was no force and her evidence produced that she was not prevented by the accused to move. PW-3, PW-4 evidence and PW-1 and PW-5 evidence pointed both came home together and at that time accused was not seen by PW-1, PW-3 and PW-4. So under such circumstances, accused gave threatening and they did not disclose the incident out of fear, create doubt and their evidence does not inspire confidence and I am constrained to hold that their testimony is not acceptable beyond all reasonable doubt.
- 33. In view of the aforesaid discussion, I come to my definite finding that prosecution evidence is not sufficient enough to hold accused Parimal Das guilty of committing of offence u/s-376 IPC and section-4 of the POCSO Act and I hold prosecution failed to bring home the charge u/s-376 IPC and section-4 of the POCSO Act beyond all reasonable doubt and accused is entitled to benefit of doubt.
- 34. In the result, accused Parimal Das is acquitted from the charge of section-376 IPC and section-4 of the POCSO Act and is set at liberty.
- 23. However, his bail bonds remain stands for next 6 (six) months u/s-437-A CrPC.

Judgment is given under my hand and seal of this court on this the 19^{th} day of August, 2019.

Special Judge Nalbari

Dictated & corrected by me

Special Judge, Nalbari<u>.</u>

Typed by: Devajit Roy, Stenographer Grade-II

APPENDIX

A. **Prosecution witnesses**

PW-1, Miss 'X' (victim),

PW-2, Suraj Ali,

PW-3, Abed Ali,

PW-4, Jabe Ali,

PW-5 Miss 'Y',

PW-6, Nepal Das,

PW-7 Gopal Dey,

PW-8 Hajrat Ali,

PW-9, Arabinda Devnath,

PW-10 Hrithviraj Rabha (I/O),

PW-11 Dr. Urmi Devi Choudhury (M/O).

B. <u>Defence witness</u>

NIL

C. Prosecution Exhibits

Ext-1 Statement of victim Miss 'X' recorded u/s-164 Cr.P.C,

Ext-2 Ejahar,

Ext-3 Statement of Miss 'Y' recorded u/s-164 CrPC,

Ext-4 Sketch map,

Ext-5 Charge-sheet,

Ext-6 Seizure list,

Ext-7 Medical report,

Ext-8 X-Ray report.

D. <u>Defence Exhibit</u>

Nil.

Special Judge Nalbari