## Spl. POCSO Case No. 06/2019

## IN THE COURT OF ADDITIONAL SESSIONS JUDGE, FTC, BISWANATH CHARIALI,

### SONITPUR, ASSAM

## Spl. (POCSO) Case No. 06/2019

u/s 511/34 read with Sec. 376 IPC/ Sec. 8 of POCSO Act, 2012

State of Assam

-VS-

- 1. Sri Bipul Murmu
- 2. Sri Arjun Chaotal

..... Accused persons



Present:

Sri Dipankar Bora, MA, LL.M., AJS,

Additional Sessions Judge, FTC,

Biswanath Chariali, Sonitpur.

## Advocates Appeared:-

For the prosecution: Ms. J. Kalita, learned Addl. P.P

For the defence : Mr. T. Borah, learned Advocate

Date of recording Evidence: 11.11..2019.

Date of Argument

: 11.11.2019.

Date of Judgment

: 11.11.2019.

#### JUDGMENT

- 1. The prosecution case in brief is that on 13.02.2019 the informant namely, Smti Moni Munda lodged an FIR with the OC, Gingia PS stating inter alia that on 11.02.2019 when her daughter (name is withheld) was returning from Ratowa Centre, accused Bipul her took her forcibly from the road to a nearby jungle while the accused Arjun awaited there with their bicycle. One Santosh Keot had seen Arjun in the light of his motor cycle and heard her daughter's cry. When he arrived there, the miscreants fled after leaving the victim.
- Receiving the same, the police registered a case and investigated the matter. After investigation the police submitted charge sheet against the accused persons u/s 376/511/34 IPC r/w Section 8 of POCSO Act, 2012.
- 3. The accused persons in due course appeared before this court, wherein the copies of the relevant documents were furnished to them. Taking note of the materials furnished u/s 173 CrPC and upon hearing both the sides on the point of charge, as this court found grounds for presuming that the accused persons had committed offences u/s 511/34 read with Sec. 376 IPC/ 4 of POCSO Act, 2012, the charges were accordingly framed against them, which on being read over and explained, they pleaded not guilty.

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4. During trial, the prosecution examined the informant/mother of the victim as PW 1 and the victim as PW 2. Looking into the evidence as adduced by these vital witnesses, more particularly, the evidence of the victim- PW 2, the prosecution declined to examine the remaining witnesses contending that further evidence would not strengthen its case. As no incriminating evidence was found against the accused persons, the prosecution evidence was closed and the examination of the accused persons u/s 313 CrPC were dispensed with. The case was thereafter argued by both the sides.

## Points for determination

1. Whether the accused persons on the day of the alleged occurrence attempted to commit rape on the said victim in furtherance of their common intention?

2. Whether the accused persons on the day of the alleged occurrence committed sexual assault on the said victim?

# Discussion, Decision and Reasons thereof

- 5. PW 1 is the mother of the victim and the informant. She stated that the incident took place about 9 months back. According to her, her daughter was 20 years old at that relevant time. Her daughter was coming on that day in the evening hours, when the accused persons met her on the way. They asked her as to why she had returned so late in the evening. The people of nearby had seen them for which her daughter got frightened and she entered into a jungle nearby. Noticing both the accused there, the villagers had asked her to lodge a case. Accordingly she lodged the 'ejahar', which she prove as Ext.1. In her cross, she stated that she lodged the Ext.1 out of misunderstanding. According to her, the accused persons did not misbehave the victim in any manner.
- 6. PW 2- the victim stated that on that day of occurrence, the accused persons met her on the way. They are from the same village. They enquired her as to why she returned in the evening. She out of fear after noticing the villagers, entered into a jungle. Later she was taken by the villagers to her house. She also stated that the accused persons did not misbehave her.
- 7. Thus from the evidence of both these vital witnesses, more particularly, from the evidence of PW 2, we do not find any evidence against the accused persons to convict them on the offences charged against them. The prosecution has failed to prove its case. As such I acquit the accused persons from the offences charged against them and set them at liberty forthwith. Their bail bonds are discharged. The provision of Sec. 437-A CrPC is not complied with after taking note of the evidence on record. A copy of the judgment be

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forwarded to the District Magistrate, Sonitpur in compliance with the sec. 365 Cr.P.C. The case is disposed of.

Given under my hand and seal of this court on this the 11th day of November, 2019.



(D. BORA)

Additional Sessions Judge, FTC,
Biswanath Chariali, Sonitpur, Assam.

Addl. Sessions Judge

Biswanath Chariali, Sonitpur

# **ANNEXURE**

# Witnesses examined by the Prosecution:

PW1- Smti Moni Munda

PW2- Victim



Ext.1- Ejahar

**Witnesses examined by the Defence:** 

None.

**Documents exhibited by the Defence:** 

None.

Addl. Sessions Judge Biswanath Chanali, Sonitpur