## 

#### Special (POCSO) Case No. 15/2018.

U/S - 354/354(D) of IPC read with Sec. 8 of POCSO Act, 2012.

#### State of Assam

- Versus -

Jubair Ahmed Laskar

...... Accused.

PRESENT: Shri D. Bhattacharjee, Special Judge, Hailakandi.

#### Appearance and particulars :-

For the State

:- Sri U.K. Das, Ld. Public Prosecutor.

For the accused person

:- Sri L.H. Mazumder, Ld. Advocate.

Date of recording evidence

:- 13.09.2019.

Date of recording statement u/s 313, CrPC :- 23.09.2019.

Date of Argument

:- 23.09.2019.

Date of Judgment

:- 23.09.2019.

#### JUDGMENT

- 1. The prosecution case, in brief, is that on 25.06.2018 the informant cum victim lodged an ejahar with the I/C, Jamira Patrol Post alleging that on 25.06.2018 at about 3 PM the victim was returning home from Garmurah market and while she crossed a place named Rankhal Basti, the accused person Jubair Uddin Laskar appeared there and forcefully dragged her with an intent to get her in his motorcycle and when she raised hue and cry, the accused person left the place.
- 2. On receipt of the ejahar, the same was sent to the O/c, Ramnathpur Police Station, wherein a case vide Ramnathpur PS case No. 116/2018

Contd.....P/2.



under Sec 354/354(D), IPC read with Sec. 8 of the POCSO Act was registered and during investigation, police visited the place of occurrence, drew up rough sketch map thereof, recorded statements of witnesses, got the statement of the victim recorded under Sec. 164, CPC and after completion of investigation submitted charge sheet against the accused person Jubair Ahmed Laskar under Sec. 354/354(D), IPC read with Sec. 8 of the POCSO Act

- On appearance of accused person Jubair Ahmed Laskar, copies of relevant materials in terms of Sec. 207 of the CrPC were furnished to him.
- After hearing the Ld. Public Prosecutor and the Ld. Defence Counsel and after perusal of materials available on record, having found sufficient grounds for presuming that the accused person has committed the offence, the formal charges have been framed against the accused person Jubair Ahmed Laskar under Sec.354/354(D) of the IPC read with Sec. 8 of the POCSO Act. The charges so framed were read over and explained to the accused person, to which he pleaded not guilty and claimed to be tried. Hence, the trial.
- In the instant case, the prosecution has examined the victim cum informant only. Thereafter, on submission of Ld. Public Prosecutor and the Ld. Defence Counsel, the prosecution evidence was closed. The accused person is examined under Sec. 313, CrPC, wherein he has denied the allegations levelled against him by the prosecution. The defence did not adduce any evidence.
- Heard argument of both sides. Perused the record.

#### POINTS FOR DETERMINATION :-

SESSIONS JUDGE

cum victim and thereby, the accused has committed the offence punishable under Sec. 354?

(ii) Whether the accused person did stalking the victim to foster personal interaction repeatedly despite of disinterest on her part and thereby, the accused has committed the offence punishable under Sec. 354(D), IPC?

(iii) Whether the accused person sexually assaulted the victim, a minor girl, and thereby, the accused has committed the offence punishable under Sec. 8 of the POCSO Act, 2012?

#### DISCUSSION, DECISION AND REASONS THEREOF :-

7. The informant cum victim (PW.1) has deposed that about one year back, one day at about 9 AM she went to Garmurah Bazar for shopping and after completed the shopping, she was returning her house and on the way, the accused appeared there with a bike and asked her for lift but she refused and thereafter, the accused left for his destination and then, she filed the FIR, Ext. 1. During investigation, police got her medically examined and also she made statement before Magistrate vide Ext. 2.

In cross examination, the victim has stated that she lodged the FIR under the instruction of her father and the contents of the FIR were not read over to her and without going through the same, she lodged the FIR. It is further stated by the victim that she has got no accusation against the accused.

In the instant case, though the informant cum victim i.e. PW.

1 has implicated the accused person completely in the FIR but the victim in her
evidence stated a different version. She has stated that on the relevant day she was
returning to her house from Garmurah market and on the way, the accused
appeared there with a motorcycle and offered her a lift but she refused and then,
the accused left the place. In her cross examination, the victim has made it crystal
clear she lodged the FIR on being instructed by her father and the contents of the

SESSIONS JUDGE
HAILAKANDI

### Special (POCSO) Case No. 15/2018.

-4-

FIR were not read over to her before lodging the same. As such, when the victim herself, whose evidence bears much significance to decide such type of cases, has not supported the prosecution case, I do not find any cogent reason to hold the accused person guilty for the commission of the offence, alleged.

- 9. Accordingly, it can be safely held that the prosecution failed to prove its case against the accused person.
- 10. In fine, the accused person Jubair Ahmed Laskar is acquitted of the offence charged under Sec. 354/354(D) of the IPC read with Sec. 8 of the POCSO Act. Set him at liberty forthwith.
- The bail bond of the accused stands discharged.

The judgment is delivered today, on this the 23rd day of September, 2019.

Special Judge, Hailakandi

Dictated and corrected by me :-

SESSIONS JUDGE

Special Judge, Hailakandi.

SESSIONS JUDGE HAILAKANDI

Dictation is taken and transcribed by Baharul Islam Choudhury, Stenographer Grade I.

# Special (POCSO) Case No. 15/2018.

-5-

Appendix :-

Oral evidences :-

PW. 1, the victim.

Documentary evidences :-

Ext. 1- FIR &

Ext. 2- Statement of the victim recorded under Sec. 164, CrPC.

Defence did not adduce any evidence.

Special Judge, Hailakandi

SESSIONS JUBGE