## IN THE COURT OF SESSIONS JUDGE DARRANG, MANGALDAI.

# **Spl(POCSO)No.18 of 2019**.

(U/S:354/509/ I.P.C. & U/S 12 of POCSO Act)

State Versus

Sri Abab Deka S/O Late Rammal Deka Village- Nanara P.S- Baihata chariali Dist-Kamrup(Assam)

-- Accused.

PRESENT: Sri P.K.Bora,A.J.S., Sessions Judge. Darrang,Mangaldai.

# **APPERANCE:**

Learned advocate for the state  $\,:\,$  Mr. Premeswar Sarma, A N D

Learned advocates for the accused :Mr. Hitesh Deka

Evidence recorded on :17/05/19 and 06/06/19

Argument heard on :08/07/2019

Judgment delivered on :08/07/2019

## **JUDGMENT**:

- The case of the prosecution in brief is that on 10/07/2018 Sri Junu Baro lodged an FIR before the I/C, Burha Police Outpost under Sipajhar Police Station, Darrang(Assam) stating that on the same day at about 11.30 a.m. when her daughter visited Jayantipur veterinary Hospital the accused outraged her modesty by touching her breast.
- Having received the ejahar, Police registered a case, got the statement of the victim recorded in the Court and after completing the process of investigation submitted charge sheet against the accused U/S 354/509
  I.P.C. read with Section 12 of POCSO Act.
- 3. The written charge U/S 354/509 I.P.C. read with Section 12 of POCSO Act was explained and read over to the accused to which the accused pleaded not guilty.

#### 4. **Points for determination**:

- (i) Whether the accused person outraged the modesty of the victim minor Niharika Boro on 10/07/2018 ?
  - (ii)Whether the accused intruded upon the privacy of minor Niharika Boro?
  - (iii)Whether the accused person 10/07/18 at 11.30 a.m. in Jayantipur Veterinary Hospital under Sipajhar PS harassed minor Niharika Boro sexually and thereby committed an offence punishable U/S 12 of POCSO Act?

#### **REASONS AND DECISION THEREON**

- 5. In the course of trial, the prosecution examined PW1(informant) Junu Boro, PW2(victim) Niharika Boro and PW3 Milan Boro.
- 6. PW1 has stated in his evidence that on the day of the incident she sent her daughter Niharika to provide betel-nut to the accused, who is

considered as Veterinary doctor by them in his chamber. After returning Niharika reported her that the doctor hurled filthy words against her. Thereafter, she filed a case. Ext.1 is her FIR and Ext.1(1) is her signature.

- 7. PW2 Niharika Boro has stated in her evidence that on the day of the incident while she met the accused in his chamber the accused kissed her and gave ten rupees to buy chocolate. In the course of investigation she was produced before the Court for recording her statement. Ext.2 is her statement and Ext.2(1) and 2(2) are her signatures.
- 8. PW3 Milon Boro was not aware about the incident that occured on the date of the incident. So prosecution declared this witness as hostile.
- 9. The most crucial part of the evidence of the victim is her evidence regarding the incident that occured in the Veterinary Hospital. In her evidence made before this court she has stated that she was kissed by the accused and paid Rs.10/- to buy chocolate for herself. This is the only evidence against the accused in the evidence of PW2 Niharika Boro. But in her statement recorded U/S 164 Cr.P.C. she has stated that the accused outraged her modesty by touching her breast when she visited the chamber of the accused to provide betel-nut. The informant(PW1) has stated in her evidence that after returning from the chamber of the accused she informed her that the accused had hurled filthy words against her. Thus, the evidence brought against the accused are not similar and both PW1 and PW2 gave a different versions. PW3 did not support the prosecution case. Thus, there is no evidence against the accused person so far the alleged incident of outrage of modesty of PW2 Niharika Boro is concerned, the accused cannot be held guilty.
- 10. Thus, the accused Abab Deka is acquitted for lack of evidence and set at liberty forthwith.
- 11. The bail bond of the accused shall remain enforce for next six months U/S 437(A) Cr.P.C..

12. Given under my hand and seal of thus Court this 8th day of July,2019.

(P.K.Bora) Sessions Judge, Darrang,Mangaldai.

# **APPENDIX:**

- (A)Prosecution witnesses.
- (i)PW1 Junu Boro (ii)PW2 Niharika Boro (iii)PW3 Milon Boro
- (B)Defense witness: Nil
- (C)Exhibit (i)Ext.1 FIR

Sessions Judge, Darrang, Mangaldai.