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

Date: **04.03**.**2020**.

SPECIAL CASE NO. 06 of 2019

(Under Section 457/354/376/511 IPC R/W Sec. 8 of POCSO Act)

The State of Assam

-Versus-

Bablu Bin @ Niranjan Bin

......Accused Person.

APPEARANCE

For the State......Mr. Uttam Kumar Sarkar, learned Spl. P.P.

For the DefenceMr. R.K. Jain, learned Advocate.

Date of framing charge : 30.03.2019

Evidence recorded on :-20.02.2020.

Argument heard on :-04.03.2020

Judgment delivered on :- 04.03.2020 .

JUDGMENT

- 1. Sri Bablu Bin @ Niranjan Bin (hereinafter referred to as "accused") is before this court facing accusation for the commission of offence U/s. 376(3)/511 R/W Sec. 8 of POCSO Act.
- 2. The prosecution case, in brief, is that the informant, Smt. Urmila Devi lodged an FIR before the OC Dhubri PS on 27.09.18 and *inter-alia* stated that on 26.01.18 at about 11.30 pm when her granddaughter, Miss 'X' was

sleeping at the veranda of the house. At that time, the accused person entered in to her house and caught her granddaughter, pulled her breast and touch her private parts with an attempt to commit raped upon her. The informant stated that when her granddaughter shouted, the other family members came and rescued her granddaughter, but the accused person fled away. The informant prayed to take action against the accused person.

- 3. Based on the FIR, the police registered Dhubri PS Case No. 1461/18 under Section 457/354/376/511 IPC read with Section 8 of the POCSO Act. The OC entrusted WSI Gita Sarkar to investigate the case. During the course of the investigation, the accused person was arrested and remanded to judicial custody. The IO after investigation of the case submitted charge-sheet against the accused person under Section 457/354/376/511 read with Section 8 of the POCSO Act. The learned Special Judge transferred this case to this court for trial. Accordingly, copies were furnished to the accused person. The charges under Section 376(3)/511 IPC and Section 8 of the POCSO Act were framed against the accused person. The charges were read over and explained to the accused person to which he pleaded not guilty and claimed trial.
- 4. The prosecution in order to establish the guilt of the accused person examined as many as 5 (Five) witnesses including the victim. The defence chooses not to lead any evidence. The statement of the accused person under Section 313 Cr.P.C is recorded. The accused person pleaded his innocence.

5. Heard both sides.

6. POINTS FOR DETERMINATION:-

- i) Whether on 26.09.18 at about 11.30 pm at Binapatti, the accused person attempted to commit rape of the minor granddaughter of the informant and thereby committed an offence punishable under Section 376(3)/511 IPC.
- ii) Whether the accused person on same date, time and place sexually assaulted the granddaughter of the informant and thereby committed an offence punishable under Section 8 of the POCSO Act, 2012.

7. DISCUSSION, DECISION AND REASON THEREOF:-

I have gone through the evidence on record and consider the submissions of the learned Special Public Prosecutor and the learned counsel of the accused person. PW1 the informant in her evidence stated that the accused person is his grandson by relation. On the date of the incident, there was quarrel between the accused person and her granddaughter. Due to some mis-understanding she lodged the FIR. PW2, the victim also in her evidence stated that on the date of the incident there was some quarrel with the accused person who is her cousin. The other witnesses also deposed in similar fashion.

The evidence on record does not establishes the ingredients of Section

376(3)/511 or of Section 8 of the POCSO Act.

Accordingly, the accused person is aquitted from the charges under Section 376(3)/511 R/W Sec. 8 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 of Section 437A Cr.P.C.

Given under my hand and seal of this court on this 4th day of March,2020.

Dictated & corrected by me

Special Judge, Dhubri

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

APPENDIX

A. **Prosecution Witnesses:**

CW-1 Sakal Bin

PW- 1 Urmila Devi

PW-2 Ms. 'X'

PW-3 Krishna Bin

PW-4 Sira Devi

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

Ext-1 Ejahar

C. Defence Witnesses :- Nil

D. **Defence Exhibit**: Nil

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