present:- Shri R.A.Tapadar, AJS

### **SPECIAL CASE NO. 93 OF 2018**

(Under Section 363/376(AB) IPC R/W Sec. 6 of the POCSO Act)

The State of Assam

-Versus-

Akbar Ali

......Accused Person.

### **APPEARANCE**

For the State......Mr. Uttam Sarkar, learned Special P.P.

For the Defence ....Mr. Rakibul Amin, learned Advocate.

Date of framing charge : 06.04.2019

Evidence recorded on :02.03.2020

**Argument heard on :-16.03.2020** 

Judgment delivered on :- 16.03.2020.

#### <u>JUDGMENT</u>

- 1. Md. Akbar Ali (hereinafter, referred to as "accused") are before this court facing accusation for the commission of offence U/s.363/376(AB) IPC R/W Sec. 6 of the POCSO Act.
- 2. The prosecution in case brief is that the informant Nurul Islam lodged an FIR before the IC Bazar Nagar under Dhubri PS on 06.04.18 and *inter-alia* stated that on that day at about 11.30 am while his 3(Three) years old daughter was playing infront of his house. The accused person induced his daughter with a *Kulfi Malai* and took her to his house and had sexual intercourse with her. The informant

stated thereafter his daughter told his wife about the incident. The informant prayed to take action against the accused person.

3. Based on the FIR the IC Bazar Town Out Post gave GD Entry No. 125 dated 06.04.18 and forwarded the case to the OC Dhubri PS for registration of a case. Accordingly, Dhubri PS Case No. 412/18 under Section 363 IPC R/W Section 6 of the POCSO Act. Thereafter, Section 376(AB) was added. The OC entrusted entrusted SI Danesh Ali to investigate the case. During the course of investigation, the accused person was arrested and was remanded to judicial custody. The police after investigation submitted charge-sheet against the accused person under Section 363/376(AB) and Section 6 of the POCSO Act. The learned Special Judge transferred this case to this court for trial.

Accordingly, charge under Section 8 of the POCSO Act was framed against the accused person. 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 3 (Three) 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:-

Whether the accused person on 06.04.18 at about 11.30 am at village Iron Jongla Part-III sexually assaulted the minor daughter of the informant by tough her breast/ vagina and thereby committed an offence punishable under Section 8 of the POCSO Act.

3

7. DISCUSSION, DECISION AND REASON THEREOF:-

I have gone through the FIR, the evidence on record and also the submission of

the learned Special Judge and the learned counsel of the accused person. The

victim in her evidence stated that the accused person is her grandfather who gave

her Kulfi Malai. PW1 and PW2 the father and the mother of the victim stated in

their evidence that on the date of the incident there was some altercation with the

accused person. The evidence on record does not discloses that the accused person

sexually assaulted the minor daughter of the informant. Accordingly, the accused

person is acquitted from charges under Section 363/376(AB) R/W Section 8 of the

POCSO Act and set at liberty, forthwith. His bail bond 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 16<sup>th</sup> day of March, 2020 at

Dhubri.

Dictated & Corrected by me

Special Judge, Dhubri

Special Judge, Dhubri.

## <u>APPENDIX</u>

## A. **Prosecution Witnesses:**

PW-1 Nurul Islam

PW- 2 Musst. Fajila Khatun

PW-3 Miss 'X'

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

Ext-1 Ejahar

C. **Defence Witnesses** :- Nil

D. **Defence Exhibit** : Nil

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