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

Date: 27.02.2020.

SPECIAL CASE NO. 10 of 2019

(Under Section 294 IPC and Section 12 of the POCSO Act)

The State of Assam

-Versus
Amzad Ali Sikdar

.......Accused Person.

APPEARANCE

For the State......Mr. Sudhaman Ch. Ray, learned Addl.P.P.

For the DefenceMr. Baharul Islam, learned Advocate.

Date of framing charge : 29.03.2019

Evidence recorded on :-04.12.2019,14.02.2020,

Argument heard on :-27.02.2020

Judgment delivered on :- 27.02.2020 .

1. Md. Amzad Ali Sikdar (hereinafter referred to as "accused") is before this court facing accusation for the commission of offence U/s. 294 I.P.C. and Sec.12 of POCSO Act.

JUDGMENT

2. The prosucution case in brief is that the informant, Motiur Rahman lodged an FIR before the OC Dhubri Police Station on 10.09.2018 and *inter-alia* stated that for the last 3 /4 months the accused person on the advice of his father was harassing his minor daughter who is a student of class VIII of Dhubri Rasharaj

Jatiya Vidyalaya. The informant stated that the accused person hurled obscene words towards her daughter and also gave obscene gesture while coming and going from school. The informant stated that the accused person is trying to establish elicit relationship with his daughter and for that there was a village meeting. But the accused person did not obey the decision of the meeting. The informant stated that on 09.09.18 at about 3.15 pm the accused person called from a mobile number 8402828193 in his mobile No which is used in his house and hurled obscene words and threatened that he will kidnapped his daughter. The informant's father stated that his daughter is under fear and was unable to go to school, tuition and market. The informant prayed to take action against the accused person.

- 3. Based on the FIR the police registered Dhubri PS Case No. 1352/18 under Section 354(A)/354(D)/ 294/507 read with section 12 of the POCSO Act. During course of investigation the accused person was arrested and remanded to judicial custody. The police after completion of the investigation submitted charge-sheet against the accused person under Section 354(B)/294/507 and Section 12 of the POCSO Act. The learned Special judge transferred the case to this court for trial. Accordingly, charges under Section 294 IPC and Section 12 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 4 (Four) witnesses including the victim. The defence choses 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. **POINS FOR DETERMINATION:**-

- i) whether the accused person on 09.09.18 at about 3.15 PM used obscene words towards the informant at Jhagrarpar and thereby committed and offence punishable under Section 294 IPC?
- ii) Whether on the same date, time and place the accused person sexually harass the minor daughter of the inforamant and there by committed a offence punishable under Section 12 of the POCSO Act?

7. DISCUSSION, DECISION AND REASON THEREOF:-

I have gone through the evidence on record and also consider the submission of the learned Special Public Prosecutor and also the learned counsel of the accused person. The informant father of the victim stated in his evidence that the accused person sent a message in a mobile phone of his wife but he cannot say what was the contents of the message. The PW 1 also stated that his brother Sahar Ali Munshi told that the accused person sent a message to his daughter. The informant could not say what type of message was sent by the accused to his wife. CW1, the wife of the informant stated that she received a SMS from an unknown person and due to suspicion her husband lodged the FIR. The victim PW 3 in her evidence stated that her mother received a SMS from an unknown person and for that her father lodged the FIR. PW3 also stated that his aunt received a SMS from an unknown person and due to suspicion his uncle lodged the FIR. The evidence on record does not discloses that the accused person hurled obscene words towards the informant in a public place. The evidence also does not disclose that the

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accused person sexualy harass the victim. Accordingly, the accused person is aquitted from the charges under Section 294 IPC and Section 12 of the 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 27th day of February, 2020.

Dictated & corrected by me

Addl. Sessions Judge, Dhubri

Mr. R.A. Tapadar, AJS Addl. Sessions Judge, Dhubri

APPENDIX

A. **Prosecution Witnesses:**

PW-1 Md. Motior Rahman

PW-2 Mustt. Sonabhan Bibi

PW-3 Ms 'X'

PW-4 Md. Saydul Islam

B. **Documents Exhibited by Prosecution:**

Ext-1 Ejahar

C. Defence Witnesses :- Nil

D. **Defence Exhibit**: Nil

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