## IN THE COURT OF ADDITIONAL SESSIONS JUDGE, FTC, BISWANATH CHARIALI,

#### SONITPUR, ASSAM

## Spl POCSO Case No. 03/2017

u/s 8 of POCSO Act, 2012

State of Assam

-VS-

Sri Jiten Munda

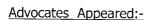
..... Accused person

Present:

Sri Dipankar Bora, MA, LL.M., AJS,

Special Judge,

Biswanath Chariali, Sonitpur.



For the prosecution: Ms. J. Kalita, learned Addl. P.P

For the defence : Mr. G. Bo

: Mr. G. Borah, learned Advocate.

Date of recording Evidence: 15.07.2019.

Date of Argument : 15.07.2019.

Nata (6.7 )

Date of Judgment : 15.07.2019.

#### **JUDGMENT**

The prosecution case in brief is that on 21.02.2017 the informant namely. Smti Mangri Koruwa lodged an FIR with the OC, Gohpur PS stating inter alia that on 19.02.2017 at about 7 PM when her 13-year-old daughter (name is withheld) was returning to her house from a shop situated at Balijan Mathauri, the accused taking advantage of darkness wrongfully restrained her and pulled her to the nearby jungle in order to commit rape on her. Hearing the noise raised by her daughter, as the people from nearby gathered, the life of her daughter was saved.

Receiving the same, the police registered a case and investigated the matter. After investigation, the police submitted charge-sheet against the accused Jiten Munda u/s 8 of

the POCSO Act.

3. The accused in due course appeared before this court to face trial. Copies of the relevant documents were furnished to him. After hearing both the sides on the point of charge, taking note of the materials furnished u/s 173 CrPC, as this court found grounds for presuming that the accused person had committed an offence punishable u/s 8 of the

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- POCSO Act, 2012, the charge was accordingly framed against him, which on being read over and explained, the accused pleaded not guilty.
- 4. During trial, the prosecution examined the informant and the alleged victim. Looking into their evidence the prosecution declined to examine the remaining witnesses contending that further evidence would not strengthen its case. Taking note of the evidence as adduced by both these vital witnesses, the prosecution evidence was closed. As no incriminating evidence was found against the accused, his examination u/s 313 CrPC was dispensed with. The case was thereafter, argued by both the sides.



#### **Points for determination**

Whether the accused on the day of the alleged occurrence committed sexual assault on the said victim, who is below the age of 18 years?

# Discussion, Decision and Reasons thereof

- 5. PW 1 is the victim. She stated that the incident took place about a year back. According to her, on that day in the evening hours when she was on the way to a shop, the accused met her on the road and spoke to her. Witnessing both of them together, the people nearby raised alarm. She stated that the accused is her brother-in-law in relation. Her mother out of fear and on being asked by the villagers, lodged the FIR against the accused. Later, she gave her statement u/s 164 CrPC, which she proved as Ext. 1. In her cross-examination, she stated that her mother had lodged the FIR against the accused out of misunderstanding. She has no grievance against the accused and according to her, the accused is innocent.
- 6. PW 2 is the informant, Smti Mangri Koruwa and the mother of the alleged victim. She stated that on the day of the said occurrence, the accused in an inebriated condition held the hands of the victim. She stated that when the people of the village noticed that incident, they asked her to lodged an FIR, which she did and proved the same as Ext. 2. She however, stated that the accused did not misbehave her daughter and as she was asked by the villagers to lodge an FIR, she out of misunderstanding lodged the same. She also stated that the accused is innocent.

Thus from the evidence of both these vital witnesses, we do not find any material against the accused person to convict him on the offence charged against him. The prosecution has failed to proved its case. As such I acquit the accused from the offence charged against him and set him at liberty forthwith. His bail bond stands discharged. The provision u/s 437-A CrPC is not complied with after taking note of the evidence on record. A copy of the judgment be forwarded to the District Magistrate, Sonitpur in compliance with the sec. 365 Cr.P.C. The case is disposed of.

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Page 3 of 4

Spl. POCSO Case No. 03/2017 Given under my hand and seal of this court on this the 15th day of July, 2019.

(D. BORA) | SA Additional Sessions Judge, FTC, Biswanath Chariali, Sonitpur, Assam.

Articl. Sessions intra Biswanath Chanail, Symput

#### **ANNEXURE**

# Witnesses examined by the Prosecution:

PW1- Victim

PW2- Smti Mangri Koruwa

# CON PID

### **Exhibits proved by the prosecution witnesses:**

Exhibit-1: Statement of the victim u/s 164 CrPC

Exhibit-2: FIR

# Witnesses examined by the Defence:

None.

# **Documents exhibited by the Defence:**

None.

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