#### **HEADING OF JUDGEMENT IN SPECIAL CASES:**

**DISTRICT: DHUBRI.** 

IN THE COURT OF SPECIAL JUDGE: DHUBRI.

SPECIAL CASE NO: 09/2017

UNDER SECTION: 376 IPC

READ WITH SECTIOM 4 OF THE POCSO ACT.

VS.
RAFIQUL ALI

PRESENT:- DIPAK THAKURIA,
SPECIAL JUDGE,
DHUBRI.

#### **APPEARANCES:-**

B. R. BASUMATARI, SPECIAL P. P. FOR THE STATE.
A. SAMAD MIAH, ADV. FOR THE DEFENCE.

DATE(S) OF EVIDENCE:- 24-08-2017, 25-01-2018,

26-06-2018, 05-09-2018,

31-10-2018, 09-05-2019,

23-05-2019.

**DATE OF ARGUMENT:- 06-06-2019.** 

**DATE OF JUDGMENT :- 20-06-2019.** 

#### J U D G E M E N T

- **1.** Accused Rafiqui Ali stands trial for the offences punishable under section 376 IPC read with section 4 of the POCSO Act for allegedly committing rape or penetrative sexual assault to the minor daughter of the complainant.
- 2. The facts of the case, as revealed from the ejahar, in brief, are as follows:- that on 21-

04-2016 the complainant lodged a written ejahar before the in-charge of Halakura police out post against the accused Rafiqul Ali with an allegation that on 19-11-2016 at about 8 p.m. the accused called his daughter to the house of one Gaji Rahman and committed rape on her in the house of Gaji Rahman. The accused and his daughter had affairs for last one year and the accused induced her that he would marry her and established physical relation with her. On 19-11-2016 the villagers caught his daughter and the accused in compromising condition and then he came to know the incident. The guardians of the accused were called; but they denied the incident. The accused had also refused to marry his daughter.

- **3.** After receiving the ejahar, in-charge of Halakura police outpost forwarded the same to the Officer-in-charge of Golokganj police station where a case as Golokganj P. S. Case No. 1150/2016 under section 376 IPC was registered. Subsequently section 4 of the POCSO Act was added.
- 4. The investigating officer arrested the accused, produced him before the Court and the Court remanded him to judicial custody, recorded the statements of witnesses under section 161 Cr. P. C. and statement of the victim was also recorded under section 164 Cr. P. C. By completing the investigation I. O. has submitted charge sheet against the accused person to prosecute him under section 376 IPC read with section 4 of POCSO Act.
- **5.** Cognizance of the case was taken in charge sheeted sections and one of my learned predecessors granted bail to the accused.
- **6.** Copies were furnished to the accused and after hearing both the parties and perusal the case record and case diary formal charges against the accused under section 376 IPC read with section 4 of POCSO Act were framed. Charges so framed were read over and explained to the accused which he pleaded not guilty and claimed to be tried.
- **7.** The prosecution examined eleven witnesses including medical and investigating officers and closed the evidence.
- **8.** After completion of the prosecution evidence, the statement of the accused was recorded u/s 313 Cr. P. C. by putting questions to him from all incriminating evidence appearing against him on record and thereby giving him an opportunity to meet the

same. In response to which, the accused denied the allegations as well as evidence on record.

- **9.** The defence examined one witness in defence.
- 10. During trial the accused filed a petition claiming that at the time of the incident he was a child-in-conflict with law and submitted his birth certificate in support of his claim. This Court directed Officer-in-charge of Golokganj police station to submit a report regarding the genuineness of the birth certificate of the accused. It was submitted that the birth certificate of the accused was not genuine. As the accused filed a forged document; so, bench assistant of the Court was directed to file a formal ejahar against the accused. Accordingly the then bench assistant filed a written ejahar against the accused. At Dhubri police station a case was registered against the accused and he was arrested in connection with that case and put him in the jail. This Court issued production warrant and after producing the accused under the strength of production warrant the accused was remanded to hajot.
- **11.**Heard learned counsels appearing for the parties and perused the evidence on record.

#### **FOLLOWING POINTS HAVE BEEN SET UP FOR DETERMINATION**

Whether the accused on 19-11-2016 at about 8 p.m. at village Atgharitari under Golokganj police station committed rape on the minor daughter of the complainant and thereby accused is liable to be punished under section 376 IPC?

Whether the accused on the same day time and place committed penetrative sexual assault to the minor daughter of the complainant and thereby accused is liable to be punished under section 4 of the POCSO Act?

# DISCUSSIONS ON THE POINTS FOR DETERMINATION AND THE DECISION ARRIVED THEREON WITH REASON:

**12.**In order to establish the charges against the accused, the prosecution has examined eleven witnesses. Among them P. W. 1 is the complainant and the father of the victim girl i. e. P. W. 3. P. W. 2 Anowar Hussain, P. W. 4 Kuddus Ali, and P. W. 9 Joynab Bibi are the independent witnesses. P. W. 5 Boloram Khetri is the Judicial Magistrate who recorded the statement of the victim under section 164 Cr. P. C. P. W. 6 and P. W. 8 are the relatives of the complainant. P. W. 7 Dr. Rinku Ahmed is the medical officer who

examined the victim after the incident. P. W. 10 Dr. Mohammad Laskar Ali is the medical officer who conducted ossification test of the victim girl P. W. 11 Ajit Kirtonia is the investigating officer.

- **13.** The defence examined one Hitesh Ch. Ray as D. W. 1.
- **14.**Learned Special Public Prosecutor B. Basumatary has submitted that the allegations against the accused that he committed rape on a minor girl. The prosecution examined all the important witnesses and they have supported the case of the prosecution. The radiologist after examining the victim girl has given his opinion and stated that at the time of examination of the victim she was below 18 years. So, there is nothing to disbelieve the opinion of doctor. The victim girl has categorically explained what the accused did with her and her evidence is found trustworthy and her father fully corroborated her. The prosecution is able to establish the charges against the accused beyond all reasonable doubt. So, has prayed to hold the accused guilty under framed charges and impose adequate punishment to him.
- that the prosecution has failed to establish the charges against the accused beyond all reasonable doubts. The alleged victim is not a minor on the day of the incident. During investigation the investigating officer seized the birth certificate of the victim girl and subsequently it is proved that the same was forged one. As per medical officer the victim was below 18 years; but the opinion of medical officer vary for two years in either side and being it a criminal case the fact which is favourable to the accused has to be accepted. If two years is added with the opinion of doctor; the age of the alleged victim would be 19 years. So, the victim was a major girl at the time f incident. The victim was a consenting party. If there was rape defiantly the medial officer would get the symptoms of rape. But the medical officer detected no mark of sexual violation on her body. The other independent witnesses have not supported the case of the prosecution. The prosecution has failed to establish the charges against the accused beyond all reasonable doubts. So, the accused deserves benefit of doubt. Hence, has prayed to acquit the accused.
- **16.**Before we proceed, let us reproduce the material parts of the witnesses examined by the prosecution during trial.

- 16.1 P. W. 1 is the complainant and the father of the victim girl. He has deposed that on 19-11-2016, at around 08:00 p.m., at village Atgharitari, under Golokganj P.S., seeing a gathering in the house of Gaji Rahman, he went to his house and saw that for committing rape on his daughter, the villagers had apprehended the accused. At that time, his daughter was about 17 years old. The accused promised before the villagers that he would marry his daughter. The guardian of the accused was informed and they came with some persons and refused to marry his daughter. The villages then handed over the accused and his daughter to the police. Therefore, he filed the FIR of the instant case against the accused.
- 16.2 In cross-examination he has deposed that he found about twenty / twenty five persons in the house of Gaji Rahman. Juddus Ali, Afjal Ali etc. were present there. He cannot say the actual age of his nine children. He does not know the name of the wife of Gaji Rahman. He has denied the suggestion of the defence that he had not mentioned in the FIR that the accused had committed rape on the victim girl. He has denied the suggestion of the defence that he had not mentioned in the FIR that on 19-11-2016 the accused had committed rape on the victim girl. He has denied the suggestion of the defence that in order to compel the accused to marry the victim girl, he had falsely implicated the accused in this case. He has further denied the suggestion of the defence that the birth certificate of the victim girl submitted by him is a forged certificate.
- **16.3** P. W. 2 Anowar Hussein is an independent witness. He has deposed that about one year ago, one day, at around 08:30 p.m., while he was returning from the market, he saw that the villages were taking away the accused and the victim girl from the house of Gaji Rahman. When he asked the villages what the matter was, they told him that the accused and the victim girl were apprehended while they were doing the bad things.
- 16.4 In cross-examination he has deposed that he did not enquire about the matter. He has denied the suggestion of the defence that the villagers did not tell him that the accused and the victim girl were apprehended while they were doing the bad things. He did not tell police that the accused and the victim girl were apprehended while they were doing the bad things.
- **16.5** P. W. 3 is the alleged victim. She has deposed that she knows the accused. Before the alleged incident, promising to marry her, the accused had

committed sexual intercourse with her. On the day of the occurrence, the accused took her to the house of Gaji Rahman and committed sexual intercourse with her. Seeing the same, the villages apprehended them. In the meantime, her father arrived there and asked the accused whether he would marry her or not. The accused told her father that he would marry her. Then the guardians of the accused were called and they arrived and told that they would not marry her to the accused. Therefore, her father filed this case against the accused. At that time, her age was 17 years. Her statement was recorded by the Magistrate in the Court and she put thumb impression thereon. She was also sent to the hospital for medical examination and the Doctor examined her. During investigation, the I.O. seized her birth certificate. After seizing the same it has given to her. She put her thumb impression in the seizure list.

- In cross-examination she has deposed that she does not remember the date when she was produced before the Magistrate. She has denied the suggestion of the defence that she does not tell the Magistrate that the accused committed sexual intercourse with her on the day of the occurrence. Gaji Rahman had four children. Gaji Rahman and his wife were not present in the house at the time of occurrence. She did not tell anybody about the incident that the accused committed sexual intercourse with her before the said incident. She has denied the suggestion of the defence that with intent to compel the accused to marry her, her father had falsely implicated the accused in this case. She has denied the suggestion of the defence that the accused never committed sexual intercourse with her. She has denied the suggestion of the defence that at the time of occurrence, she was more than 18 years old. The birth certificate was given to her by Asha worker. It was given after her birth. She does not know her date of birth.
- P. W. 4 Kuddus Ali has deposed that he knows both the accused and the victim girl. About one and half years back, at about 08:00 p.m., while he was returning home, he saw the accused and the daughter of the complainant were standing inside the compound of the complainant near a toilet. Other persons were also present. He did not inquire what had happened.
- **16.8** P. W. 5 Boloram Khetri is the Judicial Magistrate who recorded the statement of the victim girl under section 164 Cr. P. C. on 22-11-2016 in connection with Golokganj P.S. case no. 1150/2016. He has deposed that as per

direction of Chief Judicial Magistrate, Dhubri, the victim, a 17 years old girl was produced before him. She was produced and identified by WHG/ Charu Bala Ray. The victim was given sufficient time for reflection of her mind. After coming to the satisfaction that the victim was not under any influence, he recorded her statement u/s 164 Cr.P.C. After recording her statement, it was read over and explained to her. His Bench Assistant obtained her thumb impression in his presence and thereafter, he put his signature in the statement. Ext-I is the statement of the victim girl and Ext-I(1) is his signature.

- **16.9** In cross-examination he has stated that no age certificate of the victim was produced before him at the time of recording the statement of the victim.
- 16.10 P. W. 6 is the relative of the complainant. He has deposed that about two years back, one night at about 8:00 pm, he heard hue and cry and rushed to the source. He saw that the villagers gathered in the house of Gaji Rahman and brought the accused and the victim from the house of Gaji Rahman. The villagers on spot conveyed a meeting where, on being asked, the victim disclosed that she and accused had sex in the house of Gaji Rahman. The villagers asked the accused to solemnize marriage with the victim, but he refused to marry her. So, the villagers handed the accused over to police.
- **16.11** In cross-examination he has deposed that he reached the house of Gaji Rahman at about 8 pm. While the accused and the victim were brought from the house of Gaji Rahman he saw them on road. He saw 20/25 persons in the house of Gaji Rahman. Nobody disclosed before him that he had seen the incident. He has denied the suggestion of the defence that he had not disclosed before I. O. that the victim disclosed that she and the accused had sex in the house of Gaji Rahman.
- **16.12** P. W. 7 Dr. Rinku Ahmed is the medical officer who on 22-11-2016 examined the victim in connection with Golokganj P.S. Case No. 1150/16. The victim was escorted by Charu Bala Ray. According to the victim, she loved the boy and had sexual relation with consent. But the boy refused to marry her. On examination she found the patient was normal. She did not find any mark of injury on her body. She also did not find spermatozoa in vaginal smear. She did not find any evidence of sexual intercourse on the victim at the time of examination. She has exhibited her report as Ext-1 and Ext. 1 (1) is her signature.

- **16.13** P. W. 8 is the relative of the complainant. He has deposed that about two years back, one day, Police of Agomani Police outpost called him to the police outpost and asked him to show the house of Gaji Rahman. Accordingly he showed the house of Gaji Rahman.
- **16.14** P. W. 9 is another relative of the complainant. She has deposed that about two years back, one day, Police of Agomani Police outpost took her signature in a blank paper. Ext-2 is that paper and Ext-2(1) is her signature.
- P. W. 10 Dr. Mohammad Laskar Ali has deposed that on 22-11-2016, he was posted as Medical & Health Officer-I at Dhubri Civil Hospital, Dhubri. On that day, he examined the victim in connection with Golokganj PS case no. 1150/16, escorted by WHG Charu Bala Ray. To ascertain the age of the girl X-ray was done and after perusal of the X-Ray plate he finds the followings: Left wrist joint: Lower end epiphysis of ulna is not fused which means the age of the girl is less than 17 years. Left elbow joint: Radial head epiphysis is fused which means the age of the girl is more than 14 years. Left iliac crest: Iliac crest epiphysis is not fused which means the age of the girl is less than 18 years. Impression: Approximate Radiological age of the girl was less than 18 years. Ext-3 is the report prepared by him and Ext- 3(1) is his signature therein.
- **16.16** In cross-examination he has deposed that at the time of examination the guardian of the victim was not present. The age of the victim may vary two years of either side.
- 16.17 P. W. 11 Ajit Kirtonia is the investigating officer. He has deposed that on 21-04-2016, he was working as In-charge of Halakura PCP under Golokganj P.S. On that day the complainant lodged a written ejahar before him with an allegation that on 19-11-2016 at about 08:00 pm accused Rafiqul Ali called his daughter to the house of Gaji Rahman and committed rape on her. After receiving the ejahar, the same was forwarded to Golokganj PS for registration of a case where a case u/s 376 IPC was registered and he was entrusted to investigate the case. On 22-04-2016, he visited the house of the complainant. Also visited the house of Gaji Rahman, inspected the P.O. and prepared a sketch map of place of occurrence. He recorded the statements of witnesses u/s 161 Cr.P.C. The victim girl was produced before Medical Officer for medical examination and also produced in the court for recording her statement u/s 164 Cr.P.C. He seized the birth certificate of the victim girl. On

- 21-11-2016 the accused was arrested and produced him before the court. As the age of the victim was found less than 18; so, section 4 of POCSO Act was added as per order of the court. He has completed the investigation and submitted charge sheet against the accused u/s 376 IPC, read with section 4 of POCSO Act. The complainant put his thumb impression in the ejahar. Ext-2 is the seizure list and ext-2(2) is his signature. Ext-4 is the ejahar and Ext-4(1) is his signature. Ext-5 is the sketch map of PO and Ext-5(1) is his signature. Exr-6 is the charge sheet and ext-6(1) is his signature.
- 16.18 In cross-examination he has deposed that in his case diary he had not mentioned who showed the place of occurrence. The incident took place in the house of Gaji Rahman. But he did not examine Gaji Rahman and his family members. He did not examine the genuineness of the birth certificate of the victim girl. Dresses of the accused and victim were not seized by him. He did not examine whether the accused was impotent or not. He did not examine the neighboring persons of the place of occurrence.
- **16.19** D. W. 1 Hitesh Ch. Ray is the Dealing Assistant of the office of Registrar of Birth and Death of Halakura BPHC. He was entrusted by Sub-divisional Medical and Health Officer, Shibu Lal Nath to depose in the court in connection with the case. He brought Register of Birth and Death for the year 1999. His office record shows that his office in the year 1999 did not issue any birth certificate in the name of the victim girl under Registration No. 12248 dated 18-08-1999. There is no provision of issuing provisional birth certificate.
- 17.On perusal the evidence on case record it appears that P. W. 1, the father of the alleged victim lodged the ejahar before in-charge of Halakura police check post under Golokganj police station on 21-04-2016 and on the basis of the ejahar a case as Golokganj P. S. case No. 1150/2016 under section 376 IPC was registered and subsequently section 4 of POCSO Act was added. On perusal the contents of the ejahar (Ext. 4) it appears that on the day of alleged incident i.e. 19-04-2016 the villagers caught the accused and the daughter of the complainant when they were found in compromising mode. The accused and the daughter of the complainant were found in the house of one Gaji Rahman and the time was 8 p.m. On that day the villagers tried to solemnize the marriage of the victim girl with the accused; but the family members of the accused did not agree. The accused was also not agreed to marry the victim girl; so the complainant filed the

ejahar.

- **18.** The case being under the provision of POCSO Act, the prosecution has to establish that at the time of the incident the victim girl was a child as defined under section 2 (d) of POCSO Act. During investigation the investigating officer seized the birth certificate of the victim girl and also conducted ossification test of the victim girl. Vide Ext. 2, the investigating officer seized the birth certificate of the victim girl and the investigating officer (P. W. 11) has exhibited the same with his signature thereon. The prosecution examined the seizure witness P. W. 9 who has deposed that one day at Agomoni police station police took her signature in the blank paper. She has exhibited that paper as Ext. 2 and her signature thereon as Ext. 2 (1). The victim girl produced her birth certificate as after seizing the same it was given to her zimma. On perusal the birth certificate of the victim girl it appears that it was issued by Registrar of Birth and Death, Halakura BPHC. The defence while cross-examined the complainant and the victim put a suggestion to them that it was a forged one which they denied. The defence examined one Hitesh Ch. Ray (D. W. 1) who is the dealing assistant of the office of Registrar of Birth and Death, Halakura BPHC. His deposition shows that from their office record of 1999 the birth certificate shown issued in the name of the victim was not issued. In the seized birth certificate of the victim girl it appears that it was a provisional certificate; but the D. W. 1 clarified that there is no provision of issuing provisional birth certificate. The prosecution did not cross-examine the D. W. 1. So, whatever he has deposed it remains intact. So, it is clear that the seized birth certificate of the victim girl was not issued by the Registrar of Birth and Death, Halakura BPHC. Another important development in the case is that the accused, during trial, by filing a petition and producing a birth certificate claimed him as child-in-conflict with law. The birth certificate was shown issued by the office of Registrar of Birth and Death, Halakura BPHC. To know the genuineness of the certificate, this Court directed Officer-in-charge of Golokganj police station to submit a report. Accordingly a report was submitted that the birth certificate of the accused was not genuine. It appears that both the birth certificates of the accused and the victim girl were found forged. Under such circumstances the date of birth of the victim girl shown in the seized birth certificate is not taken as genuine. So, her age cannot be determined from the seized birth certificate.
- **19.**As stated earlier the investigating officer did ossification test of the victim girl and the prosecution examined the medical officer Mohammad Laskar Ali (P. W. 10). He has

exhibited his report as Ext. 3 and authenticated his signature thereon as Ext. 3 (1). The medical officer after doing x-ray of the victim girl has finally concluded that the radiological age of the victim girl was less than 18 years. The report of the medical officer is vague one as he has not specifically stated the range of her age. In cross-examination the medical officer has stated that the age of the victim may vary two years in either side. If the age of the victim girl is 17 years then her age may be either 15 years or 19 years. The alleged victim in her deposition has stated that at the time of incident she was 17 years old. But in cross-examination she could not say her date of birth. Her father has also deposed that his daughter was 17 years old; but he has also could not say the date of birth of his daughter. From his cross-examination it appears that he has nine children and he could not say the actual age of his nine children. Under such circumstances it is not safe to hold that at the time of the incident, the alleged victim was a child as per section of 2 (d) of POCSO Act.

- **20.** As the prosecution has failed to establish that at the time of the alleged incident the victim girl was a child; so, the charge against the accused under section 4 of POCSO Act cannot be said to be proved.
- **21.** Now let us scrutinize whether the prosecution is able to establish the charge against the accused under section 376 IPC or not.
- 22. In a case of rape, undoubtedly, the alleged victim is the star witness for the prosecution. From the oral testimony of the alleged victim (P. W. 3) it appears that before the incident the accused promised to marry her and committed sexual intercourse with her. On the day of the incident the accused took her to the house of Gaji Rahman and committed sexual intercourse with her. Seeing the incident, the villagers apprehended her and the accused. From the case record it appears that after three days of the incident the statement of the victim girl was recorded by Judicial Magistrate (P. W. 5) under section 164 Cr. P. C. (Ext. I). Before the Judicial Magistrate she has disclosed that she had affairs with the accused and the accused and she did sex for seven days in a house situated backyard of her house. On 19-11-2016 at about 8 p.m. the villagers apprehended them in the backyard of her house. The accused told that he would marry her; but one Anowar Dewani did not allow solemnizing her marriage with the accused as at that time he was not matured. Subsequently under the pressure of Rafikul Dewani the accused refused to marry her. From the oral testimony of the alleged victim and her statement recorded by Judicial Magistrate it is not clear actually where the incident

actually took place. Was it in the house of Gaji Rahman or in her backyard house? During investigation the investigating officer prepared the sketch map of the place of occurrence which has been exhibited as Ext. 5. In the Ext. 5 the investigating officer has shown the place of occurrence in between the house of Gaji Rahman and a latrine. From the evidence of Kuddus Ali (P. W. 4) it appears that on the day of the incident at about 8 p.m. he saw the accused and the victim girl were standing inside the compound of the complainant near a toilet. But P. W. 2 and P. W. 6 have deposed that the villagers brought the accused and the victim girl from the house of Gaji Rahman. The interesting fact is that the investigating officer did not examine Gaji Rahman and his family members.

- **23.** After the incident the investigating officer produced the victim girl before the medical officer for examination and investigating officer collected the report. The medical officer (P. W. 7) has deposed that on the day of examination she found the victim was normal and she did not find any mark of injury on her body, no spermatozoa in her vaginal smear and also not find any evidence of sexual intercourse. The medical officer before examining the victim had recorded the case history and the victim girl told her that she had affairs with a boy and had sexual relation with her with consent. But the boy refused to marry her. The evidence of the medical officer has not help the prosecution anyway.
- **24.** After meticulously examining the evidence on record it appears that the accused and the victim girl had affairs and they had sex. The victim girl was a consenting party as she herself stated that before the incident she and the accused had sex for about seven times. On the day of the incident the villagers saw them in compromising condition and apprehended them.
- **25.**To constitute an offence of rape the prosecution has to establish any of the circumstances mentioned in section 375 IPC. In the case in hand it transpires that the prosecution has failed to establish that at the time of the incident the alleged victim was a minor. The alleged victim herself has stated that she had affairs with the accused and several times they had sex. So, without any hesitation it can be concluded that the victim girl was a consenting party. The victim girl came to the house of one Gaji Rahman and in his house, she accused had sex; so, it is clear that the sexual relation was not against her will. There is no evidence in the case record that the accused obtained her consent putting her in fear of death etc.

**26.**From the evidence of the complainant (P. W. 1) it appears that after apprehending his daughter and the accused, the accused in presence of villagers promised to marry her and then the villagers called his guardian who refused to solemnize the marriage of the accused and the victim. The victim girl (P. W. 3) has also deposed that after the incident her father asked the accused whether he would marry her or not and then the accused told him that he would marry her. Thereafter the guardian of the accused arrived at the spot and they refused to marry her for the accused. From the statement of the victim girl recorded by Judicial Magistrate it appears that while the villagers asked the accused then he told that he would marry her. But subsequently under the presser of one Dewani he refused to marry her.

**27.**After scanning the evidence of the prosecution witnesses it appears that the accused and the victim established physical relationship with their consent. The accused promised to marry the victim girl and he was ready to marry her. But his family members were against his marriage with the victim girl. So, the villagers handed the accused over to police and the complainant filed the case. If the guardian of the accused agreed, the complainant would have not been filed the case against the accused.

**28.**After meticulous perusal of the evidence on record I come to the safe conclusion that the prosecution has failed to establish the charges framed against the accused beyond all reasonable doubts which is mandatory in the criminal jurisprudence.

**29.**In view of the above discussion and observation it is concluded that the prosecution has failed to establish the charges framed against the accused beyond all reasonable doubts. So, he deserves benefit of doubt and accordingly the accused is acquitted of the charges on benefit of doubt and he is set at liberty.

**30.** As the accused is in judicial custody; so, he is allowed to go on bail of Rs. 10,000/ with a surety of like amount in default he will remain in jail for next six months as per provision of section 437-A Cr. P. C.

**31.** Given under my hand and seal of this Court this the 20<sup>th</sup> day of June 2019.

(D. Thakuria)
Special Judge, Dhubri.

#### IN THE COURT OF SPECIAL JUDGE: DHUBRI.

#### SPECIAL CASE NO: 09/2017

#### **UNDER SECTION: 376 IPC READ WITH SECTIOM 4 OF THE POCSO ACT.**

### STATE OF ASSAM VS. RAFIQUL ALI

## APPENDIX

#### A. Prosecution exhibits:

Ext. 1 : Medical report.

Ext. 2 : Seizure list.

Ext. 3 : Radiological report.

Ext.4 : Ejahar.

Ext. 5 : Sketch map. Ext. 6 : Charge sheet.

Ext. I : Statement of the victim.

B. Defence Exhibits:

C. Court Exhibits : Nil.

#### D. Prosecution Witnesses:

P. W. 1: Complainant,

P. W.2: Anowar Hussein,

P. W.3: Victim,

P. W.4: Kuddus Ali,

P. W.5: Boloram Khetry,

P. W.6: Relative of the victim,

P. W.7: Dr. R. Ahmed,

P. W.8: Relative of the victim,

P. W.9: Relative of the victim,

P. W.10: Dr. Mohammad Laskar Ali &

P. W.11: Ajit Kirtonia.

E. Defence Witness:

D. W. 1: Hitesh Ch. Ray

F. Court Witness: Nil.

(D. Thakuria )

Special Judge, Dhubri.