IN THE COURT OF ADDL SPECIAL JUDGE (FTC)::KOKRAJHAR

Present :- Sri C. Chaturvedy,

Special Case No.56/2018 U/S. 366(A) IPC R/W Section 6(I) of POCSO Act

STATE OF ASSAM

Vs

Md. Sattar Ali S/O Lt. Hafa Sk Vill. Bamungaon Pt. III P.S & Dist. Kokrajhar

...... Accused person.

Appearance: -

Learned Counsel for the State Mr. Manjit Kumar Ghosh

Learned Counsel for the defence Mr. S. Pahariya

Charge framed on 26.02.2019

Evidence recorded on 16.03.2019; 13.05.2019

Argument heard on 09.07.2019

Judgment pronounced on 09.07.2019

JUDGMENT

1. The case of the prosecution is that on 10.06.2018 one Star G Sangma, General Secretary of Garo Students Union lodged a written FIR with the Officer-in-charge of Kokrajhar Police Station alleging that accused Sattar Ali has been sexually abusing the victim, a minor girl of Garo Community, and on 10.05.2018 the accused abducted the victim but he was apprehended by police.

- 2. On receipt of the FIR, a case U/S 366(A) of IPC R/W Section 6 (I) of POCSO Act was registered and investigated.
- **3.** Upon completion of investigation, a charge sheet was laid against the accused for commission of offences U/S 366(A) of IPC R/W Section 6 (I) of POCSO Act. Later, the case was transferred to this Court for disposal.
- **4.** On appearance of the accused, copies of the relevant documents were furnished to him and upon hearing both sides, charges U/S 366(A) of IPC R/W Section 6 (I) of POCSO Act were framed against the accused to which he pleaded not guilty and claimed to trial.
- **5.** In the course of trial, prosecution examined 5 witnesses. At the closer of prosecution evidence, accused person was examined U/S 313 of the Cr.P.C. The defence plea is of total denial and the accused declined to adduce any evidence.

POINTS FOR DETERMINATION:

- (i) Whether the accused committed an offence U/S 366(A) of IPC?
 - (ii) Whether the accused committed sexual assault U/S 6 (I) of POCSO Act ?

DECISION WITH REASONS:

6. P.W.4, is the victim of this case. She deposed that she does not know the accused. She also deposed that about one year back she had gone Salkocha market and since she was in the market alone during the evening hours,

police took her to Police Station and informed her maternal uncle Billiam Marak. PW4 has also deposed that Billiam Marak brought her home.

- **7.** In cross examination PW4 deposed that she is married to Ranjit Sangma for the last 2 years.
- **8.** PW2 Disester Marak deposed that he knows the informant. He also deposed that about 10/11 months back he received an information from Salkocha Police that a Garo girl has been detained at the Police Station. He alongwith other students went to Salkocha Police Station and brought back the victim. The victim informed him that she loves Sattar Ali, the accused.
- **9.** PW3, Billiam Marak is the maternal uncle of the victim. He deposed that he received an information from Salkocha Police Station that a Garo girl namely xxx, has been detained at Salkocha Police Station. PW3 also deposed that he, alongwith the members of Garo Student Union, went to Salkocha Police Station and brought the victim. PW3 has also deposed that the victim disclosed that she is in love of accused.
- **10.** PW5, Habid Marak is the father of the victim. He deposed that her daughter had gone to Salkocha market but when she did not return in the evening, Billiam Marak received a call for for police that the victim has been detained in the Salkocha Police Station. PW5 deposed that

Billiam Marak brought her daughter back to home.

11. The evidence of the material witnesses have been reproduced above. The evidence does not establish the involvement of the accused for the commission of offence as alleged. The victim deposed that she does not even know the accused. The evidence only shows that the victim was detained in police station and that she was brought from police station. The victim does not implicate the accused in any manner. So being the evidence, a conviction for the offences charged cannot be sustained.

12. In view of this evidence on record there appears no reason for holding the accused guilty for the offences charged. In the result the point for determination is answered negative.

ORDER

Accused Sattar Ali is acquitted of the charges under Section 366 (A) of IPC and R/W Section 6(I) of the POCSO Act and set at liberty forthwith.

His bail bonds shall remain valid for six months.

Given under the hand and seal of this Court on this 9th day of July,2019.

Dictated by: -

Addl. Special Judge(FTC), Kokrajhar, Addl. Special Judge(FTC), Kokrajhar

<u>Appendix</u>

1. Prosecution Exhibits:

Exhibit- NIL

2. <u>Defence Exhibit</u> Nil

3. Prosecution Witness

P.W.1 Star G. Sangma

P.W.2 Disester Marak

P.W.3 Billiam Marak

P.W.4 Victim

P.W.5 Habid Marak

4. <u>Defence Witness</u> Nil

5. <u>Court witness</u> Nil

Addl Special Judge(FTC), Kokrajhar