#### **HEADING OF JUDGMENT IN SESSIONS CASE**

District :- Goalpara.

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

Present:- Sri S. Hazarika, A.J.S.

Special Judge, Goalpara.

Spl. Case No.16/18

U/s.448 of IPC read with Section 8 of POCSO Act.
In connection with GR Case No.972/16.

#### State -vs-

#### **Abdul Kader Mondal**

..... Accused.

## Ld. Advocates appeared:-

For the State :-Sri S. Sarma, Special Public prosecutor.

For the accused :-Mr.Giyas Uddin Ahmed, Advocate.

Date of evidence :-20.01,.2020.

Date of argument :- 20/01/2020

Date of judgment :- 30/01/2020

## <u>J U D G M E N T</u>

1. The informant(prosecutrix) lodged an F.I.R. alleging that on 20.04.2016 at around 4:00 P.M. in the evening, the accused entered into her house taking advantage of absence of anybody in her house and paid Rs.30/- to her and he also paid Rs.10/- to her

brothers to purchase some things from the market and sent them to the market. Thereafter, the accused suddenly grabbed her chest and tried to commit rape upon her. The informant cried for help in order to save herself and her sister and others along with neighbours came and saved her. At this stage, the accused left her house. The F.I.R. was lodged before the O/C of Chunari P.S. and accordingly Chunari P.S. Case No.06/2016 was registered. Later on, G.R. Case No.972/16 was registered.

- 2. The Investigating Officer conducted investigation of the case and after completion of investigation submitted Charge Sheet against the accused who is facing trial and and this Spl. Case was accordingly, registered. The present case was thereafter, transferred to this Court to hold the trial.
- 3. This Court furnished the relevant copies of the documents to the accused. Upon hearing both parties, this Court framed charges U/S.448 of IPC read with Section 8 of the POCSO Act against the accused. The contents of the charges read over and explained, to which, the accused pleaded not guilty and claimed to be tried.

#### 4. POINTS FOR DETERMINATION ARE :-

- i) Whether the accused on 20.04.2016 at about 4:00 P.M. illegally trespassed into the house of the informant?
- (ii) Whether the accused committed sexual assault on the victim who was a minor girl aged about 14 years.
- for both parties and also gone through the evidence on record. After the evidence of the prosecution side, the statement of the accused is recorded U/S.313 Cr.P.C., wherein he denied the allegations against him and claimed to be innocent.

# 6. <u>DISCUSSIONS, DECISIONS, AND REASONS</u> THEREFORE:-

7. In this case, the prosecution side examined two(2) witnesses. Among the witnesses PW1 is the informant and PW2 is

the father of the victim.

Accused is facing charges for committing house trespass and also for committing criminal assault upon the victim who was a minor girl aged about 14 years.

**8.** PW1 is the victim as well as the complainant of the instant case. In her evidence she stated that she is the informant and she knows the accused. Due to household matters there was an altercation between them and for which she lodged the F.I.R. out of anger. Nothing was done with her. She lodged the F.I.R. as dictated by other. She put her thumb impression in the F.I.R.

PW1 is the informant as well as victim of the alleged incident. She is the star witness of the case and in her evidence she remained silent that the accused had committed house trespass and also had done bad things with her. She remained silent that the accused had touched her private parts or did anything with ill motive. Thus, this witness did not support the prosecution case. Further, she stated that she lodged the F.I.R. out of anger. She lodged the F.I.R. as dictated by others. Thus, the prosecutrix did not support the prosecution case.

- **9.** PW2 Nur Md. Ali stated that his daughter had lodged the F.I.R. and at the time of the incident his daughter was 17/18 years. After 2/3 days of the incident he returned home and came to know that her daughter had an altercation with the accused. Her daughter was weeping but he does not know why her daughter was weeping.
- 10. The evidence of PW2 clearly did not support the prosecution case as he admitted that he came to know about the incident after 2/3 days of the alleged incident. He remained silent that the accused had committed sexual assault upon his daughter or that the accused had trespassed into his house. Thus, PW2 also did not support the prosecution case.

- **11.** The prime witness of the case did not support the case. Without the evidence of the victim the prosecution case cannot stand. There is nothing to hold that the accused had done any bad things with the victim for which he is facing trial.
- **12**. In view of the above, I am of the view that the accused deserves to be acquitted and accordingly, he is acquitted.
- **13.** Given under my hand and seal of this Court on this **30**<sup>th</sup> **day of January, 2020.**

Dictated and corrected by:-

(Sanjay Hazarika, AJS)

( Sri S. Hazarika, AJS,) Special Judge, Goalpara.

Special Judge, Goalpara.

Typed by: Jajneswar Nr. Deb, Stenographer, Goalpara.

# <u>APPENDIX</u>

**Spl. Case No.16/18** 

## **PROSECUTION WITNESSES:-**

PW1-Informant(victim).

PW2 -Nur Md. Ali

**DEFENCE WITNESS:-**

NIL

**COURT WITNESS:-**

NIL.

**PROSECUTION EXHIBITS:-**

NIL

**DEFENCE EXHIBITS:-**

NIL

**COURT EXHIBITS:-**

NIL

(S. Hazarika, AJS)

Special Judge, Goalpara.