IN THE SPECIAL COURT :: SONITPUR, TEZPUR:: ASSAM

PRESENT:- N. AKHTAR, AJS

Addl. Sessions Judge, Sonitpur::Tezpur.

Special (POCSO) Case No. 29 of 2019.

<u>U/s. 8/12 of</u>

Protection of Children from Sexual Offences Act, 2012.

State of Assam

-Vs-

Sri Babulal Sautal.

FOR THE PROSECUTION :- Mr. S.K.Moitra, Special PP.

FOR THE DEFENCE :- Mr. J.Adhikary, Advocate.

EVIDENCE RECORDED ON:- 02.03.2020.

ARGUMENTS HEARD ON :- 02.03.2020.

JUDGMENT DELIVERED ON :- 02.03.2020.

JUDGMENT

- The case of the prosecution in brief is that on 10.10.2019 at about 7-30 pm, while the daughter of the informant was going to a nearby shop, the accused caught hold of her hands and wanted to do some indecent act but the daughter of the informant raised alarm and the accused fled away from the PO. Hence, the FIR was lodged.
- 2. Based on the said FIR, a case being Chariduar PS Case No. 278/2019 U/s 8 of the POCSO Act, 2012 was registered and

after completion of investigation, the accused was chargesheeted U/s. 8 of the POCSO Act, 2012.

- 3. On appearance of the accused person, copies of relevant documents were furnished to him in compliance of the provision of Sec.207 CrPC. Having heard both the sides and considered the materials on record, formal charges were framed against the accused u/s 8/12 of the POCSO Act, 2012 and had been read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
- 4. During trial, the prosecution has examined as many as 2 (Two) witnesses including the alleged victim girl. Defence has not examined any witness. At the end of the trial, the argument advanced by the learned counsel for both the sides were heard at length.

POINT FOR DETERMINATION

- ➤ Whether the accused person on the alleged day and time of occurrence, committed sexual assault on the victim girl namely XXX aged 13 years and thereby committed an offence U/s 8 of the POCSO Act, 2012?
- ➤ Whether on the same day and time, the accused also committed sexual harassment on victim girl namely XXX and thereby committed an offence U/s 12 of the POCSO Act, 2012?

DISCUSSIONS, DECISIONS AND REASON FOR DECISION

5. I have heard the arguments advanced by learned counsel for both the sides and also gone through the evidence on record including the law relevant to the issue in hand.

- 6. PW1 (XXX) being the alleged victim girl, had deposed in her evidence that on the day of the alleged occurrence, she was going to her grandmother's house and there was a bamboo bridge on the way. The bridge was broken. The accused was going behind her. As she was moving ahead through the bridge, she was about to fall down but the accused had caught hold of her hands and saved her from falling down. The accused helped her to cross the bridge. She narrated this incident to her mother but she mistook it and filed this case against the accused. She had also deposed that the accused did not do any foul act with her.
- 7. PW2 (YYY) being the mother of the alleged victim girl had deposed the same facts as stated by her daughter but she had further stated that some of her neighbors had instigated her to file a case against the accused and out of mistaken belief and misunderstood facts, she filed this case. PW2 had further deposed that neither her daughter told her anything offensive against the accused not did the accused do any foul act with her daughter.
- 8. Thus, from the aforesaid evidence of the witnesses including the alleged victim girl, it appears that there is nothing in the evidence to show that the accused had committed any offence as alleged and charged in this case. It rather transpires that this case is a result of instigation by the neighbors and also a result of misunderstanding. Thus, the case of the prosecution is bound to fail. The accused is hence, not found guilty of any offence and as such, acquitted of the charges and set at liberty forthwith.
- 9. Forward a copy of this judgment to the District Magistrate in compliance of Sec.365 CrPC.

Given under my hand and seal of this court on the 02^{nd} day of March/2020.

Typed and Corrected by me:

Addl. Sessions Judge, Sonitpur:: Tezpur.