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. 30/2019 U/s.376/511 of I.P.C. R/W. Sec.8 of the POCSO Act.

State -vs-

1. Sofian Sk.@ Badsha

..... Accused.

Ld. Advocates appeared:-

For the Prosecution :- Mr.S. Sarma, Special Public prosecutor.

For the accused :- Mr. Ziaur Rahman, Advocate

Date of evidence : - 13/09/2019.

Date of argument :- 13/09/2019

Date of judgment : - 17/09/2019.

<u>JUDGMENT</u>

1. The prosecution case in brief is that the informant Aleya Khatoon lodged an Ezahar alleging inter alia that on 12/05/19 her minor daughter went to neighbours house to play Luddu. The accused removed her pant and tried to commit rape. As her daughter raised hulla, the informant and the neighbours arrived in the house of the accused and managed to rescue the minor girl. Hence, the F.I.R. was lodged at Goalpara P.S.

- On receipt of the said F.I.R., the present case was registered and I/O investigated. After completion of investigation submitted Charge Sheet . The I/O examined the witnesses. The victim was sent to Court and her statement U/S.164 Cr.P.C. recorded. Medical examination of the victim was done. The accused was arrested and forwarded him.
- **3.** Upon hearing both sides and considering the materials on record, this Court framed charges U/S.376/511 of I.P.C r/w Section 8 of the POCSO Act. The accused claimed to be innocent.

4. **POINTS FOR DETERMINATION ARE:**

- (i) Whether the accused attempted to commit rape upon the minor daughter of the informant ?
- (ii) Whether the accused committed sexual assault upon the minor girl ?
- **5.** I have heard argument for both sides and also gone through the evidence on record.
- **6.** The statement of the accused is recorded U/S.313 Cr.P.C. wherein he claimed to be innocent.

DISCUSSIONS, DECISIONS AND RESONS THREFORE:

- **7.** In the instant case, the prosecution sides examined two witnesses. P.W.1 is the victim and P.W.2 is the informant as well as mother of the victim.
- 8. The victim in her evidence stated that on the date of occurrence she was called to the house of the accused to pay Luddu. She went there. As they were playing, the children raised hulla and she also raised hulla. For this incident, her mother lodged the F.I.R. due to misunderstanding.

The witness remained silent about any sexual advances made by the accused. There is nothing to show that the accused has committed sexual assault or attempted to commit rape upon the victim. Thus, the witness has not supported the case.

9. P.W.2 who is the informant of the case stated that on the date of

occurrence her daughter went to play Luddu. The children raised hue & cry. Due to misunderstanding she lodged the Ezahar.

The informant also remained silent regarding any attempt made by the accused to commit rape upon her daughter. There is no evidence to show that the accused had done anything wrong with the victim.

The primary witnesses i.e. the victim and the informant(mother) did not support the prosecution case. Without the evidence of such witnesses the prosecution Case cannot stand.

- **10.** In the result the prosecution has failed to bring home the charge against the accused. The accused deserves to be acquitted and accordingly, he is acquitted.
- **11.** The bail bond of the accused stands cancelled after six month from the judgment.
- 12. Given under my hand and seal of this Court on this 17th day of September, 2019.

Dictated and corrected by:-

(Sanjay Hazarika, AJS)

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

Special Judge, Goalpara.

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

APPENDIX

Special Case No.30/19.

PROSECUTION WITNESSES:-

PW1-Prosecutrix.

Pw2-Aleya Khatun.

PROSECUTION EXHIBITS:-

Ext.1 -Ezahar.

DEFENCE WITNESS:-

NIL

DEFENCE EXHIBITS:

NIL

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