## **IN THE COURT OF SPECIAL JUDGE :: KAMRUP :: AMINGAON**

District: Kamrup, Amingaon

Present: Smti. B. Kshetry

Special Judge,

Kamrup, Amingaon

Special Sessions (POCSO) case No.15/2014

U/S- 6 of the POCSO Act, 2012

State of Assam

-Versus-

Sri Dipak Kalita

s/o-Lt. Khagen Kalita

Resident of vill –Sadilapur

P.S.-Palashbari

Dist- Kamrup

-----Accused

## Appearance:

Mr. A.K. Baruah. Ld. Addl. Public Prosecutor -----for the State

Sri Parag Kalita, Ld. Advocate ------for the accused

Date of evidence: 25.08.2015, 02.11.2015, 04.09.2017, 13.02.2018,

14.08.2018 and 19.11.2018

Date of Argument: 06.05.2019

Date of Judgment: 20.05.2019

## **JUDGMENT**

- 1. The Prosecution case in brief is that—on 23.07.2014 the complainant Smti. Mamoni Das lodged an ejahar alleging that the accused Dipak Kalita forcibly committed sexual intercourse with her minor daughter in his house when she went for roaming in the neighbourhood. Thereafter, she fell sick. Hence, this case.
- 2. On the basis of the said ejahar, Palashbari P.S Case No. 299/2014 U/S- 6 of the POCSO Act, 2012 was registered. Investigation was conducted into the case and after completion of investigation, charge-sheet was submitted against the present accused person U/S- 6 of the POCSO Act, 2012.
- 3. The case was duly committed and the Court after hearing both the parties, framed charges U/S- 6 of the POCSO Act, 2012 against accused—Dipak Kalita. The aforesaid charge was read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
- 4. During the trial, the Prosecution side examined as many as nine (9) numbers of witnesses including the informant, the victim girl, I/O and M.O. Statement of the accused person U/S-313 Cr. P.C is recorded. He has denied committing the offence and adduced the evidence of one defence witness.

#### 5. **POINT FOR DETERMINATION:**

(I) Whether the accused person on 18.07.2014, at village Atilalur, under Palashbari P.S committed penetrative sexual assault upon the minor daughter of the informant, resulting her illness and, thereby, committed an offence punishable U/S 6 of the POCSO Act, 2012?

# **DISCUSSION, DECISION AND REASONS THEREOF**

6. Perused the record. Heard Ld. Counsels for both the sides. Prosecution examined as many as 9 (nine) numbers of witnesses. Defence side examined one D.W. Now, let us go through the evidence on record.

7. P.W.1, prosecutrix has deposed in her evidence that the informant of this case is her mother and accused—Deepak Kalita is from her village. The incident took place about a year back at around 4 p.m. At the time of incident, she was a student of class-VI and she was 10 years old. On the date of incident, she had gone to visit the house of her friend—Nizara Kalita of her village. In Nizara's house, she was told her to bring some soil to wipe the floor. Thereafter, P.W.1 brought the soil. Nizara gave her a cup of tea and she had it. Then, the accused came to the house of Nizara Kalita and asked her to help wipe the floor of their house as well. Accordingly, she went to the house of the accused and wiped the floor of his house and washed her hands thereafter. At that time, only she and the accused were present in his house. P.W.1 stated that the accused took a sari and covered the walls of his house to prevent others from seeing. Thereafter, he tied up her hands, legs and mouth with 3 'Gamochas'. She tried to raise hue and cry and wanted to escape but the accused pushed her on to a bed, grabbed her and did bad act with her. After the incident, there was blood stains on her pant and the accused asked her to throw away the pant. P.W.1 refused and then the accused himself threw away her pant. The accused threatened her that if she told anyone about the incident, he would kill her and throw her into the Brahmaputra River. P.W.1 got scared and also felt ashamed, she cried. Thereafter, she came out of the house of the accused and on the way, she met Nizara and she told her the entire incident. Nizara told her to go back to her house and she went home. After reaching home, she kept sitting in the veranda. At that time, her friend—Thagu came to her house and told her mother that an incident had taken place and she asked her mother to come to their house. After returning from their house, her mother asked P.W.1 as to what had happened with her and asked her to prepare a cup of tea. Then, P.W.1 told her that she would not be able to prepare tea as she was not feeling well. Thereafter, as P.W.1 went to pass urine, she experienced lot of pain, burning sensation and there was also bleeding from her genitals. P.W.1 further disclosed that at the time of the incident, the accused had bitten on various parts of her body. She told her mother about the incident in crying state and her mother also cried. At that time, her father was not at home and he had gone to do daily labour. Her mother told her to take bath and after taking meal told her to take rest. Her father returned home at about 7 p.m. After reaching home, her father asked her as to why she had retired to bed so early and her mother told him that she was not feeling well. On the next morning, her mother told her father about the incident. Then, her father asked her as to whether the incident is true and she told him that it is true. After 6 days, her mother lodged a case. P.W.1 further stated that on the next day of the incident, though her bleeding had stopped, but still P.W.1 had a lot of pain and also had lot of sleep disturbance. At the time of the incident, P.W.1 had not attained puberty (tuloni). On the next day of lodging the ejahar, police recorded her statement in the police station. Thereafter, she was sent to GMCH for her medical examination. She was also brought before the court for recording her statement U/S-164 Cr. P.C. Ext.1 is the statement. Ext. 1 (1) is her signature.

In her cross-examination P.W.1 disclosed that the house of Nizara and the accused are opposite to each other and audible from each other. There is a road in between the houses. On the day of the incident, the family members of Nizara were present in their house. Except Nizara, no other members of her family saw her going to the house of the accused. The house of the accused is thatched house. The house had only 2 rooms, including the kitchen and the bedroom of the accused. The house of the accused is located just near the road side. Sounds in the house of the accused are audible from the road side. P.W.1 also stated that on the day of the incident, when she had gone to the house of the accused, she was wearing frock, semiz (inner garment) and white coloured half pant. After the incident her blood stained half pant was thrown away by the accused. She denied the suggestion that her mother had lodged a false case due to enmity with him. At the time of incident she fell down from the bed. She stated that the accused removed her pant.

8. P.W.2, Smti Mamoni Das is the informant. Prosecutrix is her daughter. She knows the accused. The incident took place about a year back at about 4 p.m. On the day of the incident, the prosecutrx had gone to the house of one girl located near the house of the accused to wipe the floors. There, in the house of that girl, the accused came and offered to give Rs.11/- to her and asked her to wipe the floor of his house as well. Then, her daughter went to the house of the accused. At that time, the wife of the accused was not in his house as he had earlier driven her out of the house. His house was a thatched house and he took a sari and covered the walls of his house. Then, the accused tied up the hands and legs and mouth of the prosecutrix with 3 gamochas and threw her on the bed and then grabbed her and committed bad act on her. Thereafter, he threatened to kill her and throw her into the Brahmaputra river if she tell about the incident to anyone else. The accused also warned her that she should not tell about the incident to neighbouring people and gave her Rs.11/-, but she did not take the money. P.W.2 further stated that on the date of incident, prosecutrix was wearing frock, semiz

(inner garment) and white coloured half pant and during the incindet, her pant was stained with blood. The accused noticed the blood stains and told her to throw away the pant. When she refused, he himself tied a stone on the pant and threw it in a pond. Then, the accused told the prosecutrix not to tell about the incident to anyone. During the incident, the accused had inflicted injuries on her hands and legs and had bitten her on her chest, revealing flesh. In such condition, prosecutrix (P.W.1) returned to the house. On the way to the house after the incident, P.W.1 met Nizara and told her about the incident. After reaching home when P.W.2 asked the prosecutrix to prepare a cup of tea. Then prosecutrix told her that she is not well and finding difficult to sit. Thereafter, prosecutrix went for urination. P.W.2 saw prosecutrx crying while urinating. At that time, one of her friend, namely, Thagu came to their house and took P.W.2 to their house and told her about the incident. She heard from Nizara also. After coming home, P.W.2 enquired the prosecutrix about the incident and she told her the entire incident. Then, she asked P.W.1 as to why she had gone to the house of the accused without asking her and then P.W.1 told her that she was called by the accused to his house to wipe the floor and the accused offered to give her Rs.11/-. Upon examining her body, P.W.2 found abrasions on various parts of the body of P.W.1 and she was also having pain on abdomen and burning sensation in urination and excretion. P.W.1 was having pain and she also cried. In the evening while her husband returned home and asked why the prosecutry had gone to bed so early then P.W.2 told him that she was not well. Later, at night P.W.2 told the incident to her husband. Next morning, her husband asked the prosecutrix about the incident and she told him that it is true. The condition of prosecutrix remained same on the next day also. After 5 days of the incident, she went to meet one Pradip Thakuria of her village and told him about the incident and also told him to write the ejahar for her. On the next day, she went to the police station along with her husband and prosecutrx and lodged the ejahar. Police sent P.W.1 for her medical examination. P.W.2 stated that at the time of incident, prosecutrix was aged about 11 years and studying in class-VII.

In her cross-examination, P.W.2 disclosed that she lodged she ejahar after 6/7 days of the incident. She saw blood in the urination of the prosecutrix. She disclosed that she did not have any visiting terms with the accused.

9. P.W.3, Pradip Thakuria deposed that he is the scribe of the ejahar lodged by the informant and he wrote the ejahar as per her instructions. Ext.2 is the ejahar and

Ext. 2 (2) is his signature. The ejahar was written on 23.07.2014. P.W.3 further deposed that prior to the lodging of the ejahar, the informant had come to his house and since he was a member of the Panchayat, she had requested for a village meeting about the incident. When P.W.3 asked the informant, she narrated the incident to him that the accused committed rape on her daughter (prosecutrix), who was studying in class-VI and she was 10/11 years old in the house of the accused. On coming to know about the incident, P.W.3 told the informant to take help of the police and since at that time, the prosecutirx was unwell and continued to have bleeding. Thereafter, P.W.3 wrote the ejahar and the informant put her thumb impression thereon. Police examined P.W.3 and recorded his statement. The informant told him that the incident had taken place on 18.07.2014.

In his cross-examination P.W.3 stated that he came to know about the incident on the same day when he written the ejahar i.e. on 23.07.2014. The house of the informant is about 100 meters from his house and there is a road (*Mathauri*) in between.

- 10. P.W.4, Dhiraj Thakuria is declared as hostile witness by the prosecution. He has stated in his evidence that he knows both the parties. He stated that the accused is his good friend and they work together. In his cross-examination, P.W.4 has disclosed that he did not hear anything about the incident.
- 11. P.W.5, is the M/O, Dr. Richa Pandey. She has deposed in her evidence that on 25.07.2017 she was working as Assistant professor, Department of Forensic Medicine at GMCH. On that day, she examined the prosecutrix, d/o- Dhiren Das brought in reference to Palashbari P.S Case No. 229, U/S-6 of the POCSO Act, 2012. The prosecutrix was identified by constable 186 Bhabani Devi. The victim stated her age to be 10 years at the time of examination.
- 12. On the physical examination of the victim P.W.5 found---

Her height—146 cm, weight—32 kg, chest girth—68 cm, abdominal girth—60 cm, total 20 teeth were present and out of which 10 are temporary. Scalp hair-27 cm in length, black in colour. Axillary hair and pubic hair:- Not erupted. Her breast-breast mound developed, nipple light brown in colour projecting out. Menarche—not yet attained.

## On genital examination:-

Genital organs—child like, vulva—labia minora partially exposed on abduction of thighs, Hymen –Old tears seen at 10 o'clock position, vagina—Healthy, Cervix—not examined, Uterus—not palpable per abdomen, evidence of venereal disease –not detected clinically, vaginal swabs collected from –posterior fornix and around the cervix.

<u>Injury on the body</u>— 1. Multiple abrasions present on the right abdomen of size 1 cm X 0.1 cm, 5 cm away from the umbilicus, dark brown crust partially peeled off.

- 2. Abrasion present in the front of chest wall between breasts 2 in number of size 0.8 X 0.1 cm dark brown curst formed.
- 3. Contusion present on the lateral right abdominal wall 12 cm away from umbilicus greenish in colour with pale centre.
- 4. Abrasion horizontal present on the lateral aspect of right arm of size 5 cm X 0.1 cm (2 in number) and 0.5 cm X 0.1 cm (one in number) with dark from scalp.

Her mental condition at the time of examination—Normal, co-operation and behavior—Co-operative, intelligence and memory —average.

#### Laboratory investigation:-

Microscopic examination of vaginal smears did not show any presence of spermatozoa or gonococcus.

<u>Opinion:</u> On the basis of physical examination, radiological and laboratory investigations done, P.W.5 opined that:-

- 1. Her age is above 9 (nine) years and below 11 (eleven) years.
- 2. There is no evidence of recent sexual intercourse detected on her person, however, findings are suggestive of vaginal penetration.
- 3. There is evidence of injury mark present on her person at the time of examination.

Ext.3 is the medical report. Ext. 3 (1 to 5) signatures of P.W.5. Ext. 3 (6) is the signature of Dr. R. Chaliha which she know. Ext.4 is the forwarding for medical examination. Ext. 4 (1) is her signature. Ext.5 is the command for medical examination. Ext. 5 (1) is her signature.

In her cross-examination P.W.5 has deposed that she examined the prosecutrix at 1.30 p.m on 25.07.2014. She has not mentioned in her report at what time she concluded the whole examination of the prosecutrix. She has not mentioned the age of the wound (abrasion) on her report. From the colour of the wound, the age of the wound if determined will be within approximation not accurate. The wound (abrasion) may be caused due to falling on different parts of the body. But on her opinion, abrasion on breast is mostly unlikely to receive due to falling.

- 13. P.W.6, Bhabani Devi deposed that while she was at Palashbari on 25.07.2014 she accompanied the prosecutrx in reference to Palashbari P.S. Case No. 229/14 to GMCH for medical examination and as accompanying person, she identified the prosecutrx of this case to the Medical Officer. She put her signature on the medical report which is Ext. 3 (7).
- 14. P.W.7, Nizara Kalita declared hostile by the prosecution. She has deposed in her evidence that she knows the accused, who was her neighbour. She also knows the victim. At the time of incident prosecutrix was aged about 11 years. She did not know anything about the incident.
- 15. P.W.8, Mohini Kalita, who is the mother of the accused has deposed that she knows the accused, who is her son. Further P.W.7 deposed that she did not know anything about the incident.
- P.W.9, SI, Pradip Hazarika, is the I/O of this case, who has investigated the case. In his deposition, he has stated that on 23.07.2014, he was serving as i/c Palashbari Town O.P. On that day after receiving an ejahar was lodged by one Smti. Mamani Das, he made a GDE bearing No. 278 dated 23.07.2014 and forwarded the same to O/C, Palashbari P.S for registering a case. Accordingly, a Palashbari P.S Case No. 299 dated 24.07.2017 U/S-6 of the POCSO Act, 2012 was registered and O/C, Palashbari P.S directed him to investigate the case. And accordingly, P.W.6 visited the place of occurrence along with other staffs and recorded the statement of the witnesses including the victim girl. He also prepared the sketch map. Ext.6 is the sketch-map and Ext. 6(1) is her signature. He send the victim for her medical examination to GMCH on 25.07.2014. Ext.4 is the medical requisition and Ext. 4 (2) is his signature. P.W.6 sent the victim to the court for getting her statement recorded U/S-164 Cr. P.C before the Magistrate. The

victim was allowed to go in the zimma of her guardian after her statement was recorded. The accused was arrested on 25.07.2014 and produced before the court for remanding him to jail hajot. Thereafter, P.W.6 collected the medical report of the victim. Thereafter, P.W.6 completed the investigation and on finding, sufficient materials against the accused, he submitted charge sheet against the accused-Dipak Kalita U/S-6 of POCSO Act. Ext.7 is the charge-sheet and Ext. 7 (1) is his signature.

In his Cross-examination, P.W.9 deposed that the incident took place on 18.07.2014 and the ejahar was lodged on 23.07.2014 at 10.30 p.m. P.W.6 recorded the statement of the informant after the G.D. Entry was done. P.W.6 did not seize any materials relating to the offence. P.W.9 stated that P.W.1 did not stated before him that the accused tied her legs, hands and mouth with 3 separate 'gamochas'.

- 17.
- 17. Defence side adduced the evidence of one witness. D.W.1, Sri Mukut Das has deposed in his evidence that he knows the informant as well as the accused. They are his neighbours. On 18.07.2014 at 10.30 a.m, he heard some 'hullah' in the house of the accused. He stated that the accused was preventing the informant's husband from selling liquor. There was some 'hullah' regarding some incident relating to the informant's daughter and a talk of filing a case was going on. Thereafter, the informant was compelled to leave the place for selling liquor. Though D.W.1 visited the place of occurrence but he did not know what had happened afterwards.
- 18. Perused the evidences on record. Heard the arguments of the Learned Counsels for both sides. Now, in this instant case, the accused is alleged to have committed the offence U/S-6 of the POCSO Act. Learned Counsel for the accused argued that the case is a false one out of enmity and there has been delay in lodging the ejahar. He also submitted that there is contradiction in the statement of the victim recorded U/S- 164 Cr. P. C and in her evidence before the court. His further submission is that M.O did not find recent sexual intercourse on examining the victim/prosecutrix.
- 19. I have carefully perused the evidences on record. In this instant case, prosecutrix (P.W.1) is the star witness. It is in the evidence of the prosecutrix (P.W.1) that the incident took place at 4 p.m. Her version is that on the date of occurrence, she had gone to the home of her friend—Nizara Kalita. There, the accused came and asked her to wipe the floor of his house. P.W.1 went and wiped the floor of the house of the accused. According to P.W.1, only

she and accused were present in the house. She alleged that the accused took a sari and covered the walls of his house to prevent others from seeing. Then, he tied the hands, legs and mouth of P.W.1 with 3 'gamochas' and pushed her on a bed, grabbed her and did the bad act with her. P.W.1 had blood stains on her pant and the accused threw away her pant by threatening to kill herif she disclosed the incident to anybody. It is in the evidence of P.W.1 that she told the incident to one Nizara and then to her mother. P.W.1 complained of pain and burning sensation while passing urine and she was bleeding from her genitals. This witness also alleged that the accused had bitten on various parts of her body.

- 20. The evidence of P.W.1 is fully corroborated by her mother/informant (P.W.2). Witness—P.W.2 stated that she heard the incident from her daughter (P.W.1) that the accused committed bad act (sexual intercourse) on her in his house. In her evidence, P.W.2 disclosed that on examining the body of P.W.1 after hearing the incident, she found abrasions over various parts of the body of P.W.1 and she was having pain on abdomen and burning sensation in urination and excretion.
- 21. In the case of **Bipin Kumar Mandal Verses State of West Bengal, 2010 (12) SCC 91,** the Hon'ble Apex Court reiterated that the principle stating that it is not the quantity but the quality that is material. The honored principle is that evidence has to be weighed and not counted. The test is whether the evidence has a ring of truth, is cogent, credible, trustworthy and reliable.
- 22. From the aforesaid exposition of law, it is quite clear that, it is not the number and quantity, but the quality that is material. It is the duty of the court to consider the trustworthiness of evidence on record which inspire confidence and the same has to be accepted and acted upon.
- 23. In the present case, according to the prosecutrix (P.W.1), her age was 10 years at the time of incident. According to medical report of the M.O the age of the victim is stated to be above 9 years and below 11 years at the time of examination. So, as per section 2 (d) of the Protection of Children from Sexual Offence Act, 2012, the victim was below 18 (eighteen) years at the time of incident. So, the victim is a child.
- 24. Now, coming to the evidence of P.W.1 (prosecutrix) before the court and her statement before the court recorded U/S-164 Cr. P.C (Ext.1), there is full corroboration in both the statements. Prosecutrix has made it clear in Ext.1 that the accused has sexual

intercourse with her and he threw away her blood stained cloth. So, her evidence inspires confidence and she appears to be trustworthy.

- 25. Regarding the argument of the Defence side on the point of delay in lodging the FIR by the informant (mother of the prosecutrix) to the police, it admitted by P.W.2 (informant) that she lodged the ejahar after 6/7 days of the incident. It is found from FIR (Ext.2) that the incident took place on 18.07.2014 and the ejahar was lodged on 23.07.2014. Now, since the offence of rape or abusing child sexually is a grave offence, Hon'ble Supreme Court has held that any delay in lodging by the victim or the parents of the victim to the police should not be blown out of proportion to doubt the veracity of the victim in a rape case. (State of Punjab Vs Gurmit Singh AIR 1996 SC 3093). With regard to the evidentiary value of a child witness, Sec 118 of the Evidence Act states that even a child is compelled to give evidence and the evidence of a child is admissible.
- 26. Medical evidence (Ext.3) indicates vaginal penetration. Multiple abrasion on the right abdomen, abrasion present in the front of chest wall between breasts and abrasion on the right arm are good evidences in regard to allegation of aggravated penetrative sexual assault on the prosecutrix. So, medical evidence has fully supported the ocular evidence of the prosecutrix (P.W.1). Discovery of spermatozoa in the private parts of the victim is not a must to consider it as penetration. Even slight penetration of penis into vagina without rupturing the hymen can constitute rape [1994 (5) SCC 728 Narayanamma –Vs- State of Karnataka and [1992 (3) SCC 204 Madan Gopal Kakkad –Vs—Naval Dubey.]
- Though, it was argued on behalf of the accused that he has been falsely implicated in the instant case by the informant and prosecutrix had been tutored by her to depose falsely against him, but the accused has failed to discharge the onus of proving that he had been falsely implicated in the case due to enmity as any other reason. The evidence of defence witness (D.W.1) is that on the date of occurrence at 10.30 a.m the accused was preventing the informant's husband from selling the liquor but the witness did not know anything about the incident. So, defence evidence does not inspire any confidence and is not found to be reliable one. In the light of the evidence of the victim (P.W.1) as well as her mother (P.W.2), this court can presumed under section 29 of POCSO Act, 2012 that it is the accused who had committed aggravated penetrative sexual assault upon the prosecutrix and the sexual intent can be presumed in the light of Section 30 of this Act. It was for the accused to rebut that neither he had any sexual intent nor he had committed the offence by proving to the

contrary. But, the evidence led by the accused in his defence to prove his innocence is not believable at all.

28. Now, from the above discussion, it can be safely presumed that the offence committed by the accused falls under Sec 5 (i) of POCSO Act which reads as follows:-

## 5.Aggravated penetrative sexual assault.

- (i) Whoever commits penetrative sexual assault causing grievous hurt or causing bodily harm and injury or injury to the sexual organs of the child.
- 33. The punishment for aggravated penetrative sexual assault is laid down under section 6 of the POCSO Act, which states as follows:—"Whoever, commits aggravated penetrative sexual assault, shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to fine".
- 34. In view of the above facts and circumstances of the case, it is held that the prosecution has succeeded in bringing home the charge u/s 6 POCSO Act against the accused Dipak Kalita beyond all reasonable doubt. Hence, the accused is held guilty of committing the offence under Section 5 (i) of the POCSO Act ,2012 which is punishable under Section 6 of the POCSO Act and he is , hereby, convicted.
- 35. The minimum punishment prescribed under Section 6 of the POCSO Act is rigorous imprisonment for 10 (ten) years which cannot be modified or altered . Therefore, keeping in view the serious nature of the offence, the Probation of Offenders Act is not applicable in this instant case. As such, the accused is not entitled to get the benefit under the said Act .

#### 36. **SENTENCE**

Heard the accused—Dipak Kalita on the point of sentence. Also heard the Learned Defence Counsel as well as the Learned Additional Public Prosecutor. The accused has submitted that he is innocent and he has a family to look after. He also submitted that he has not been previously convicted in any case and has pleaded for leniency in punishment.

- 37. Keeping in view the gravity of the offence, the age of the victim, the physical injuries and the mental agony suffered by the child victim in view of the penetrative sexual assault committed on her, her status and future life in the society, the accused does not deserve any leniency in punishment. Moreover, it is seen that the penal provisions of the POCSO Act is stringent in nature, which shall have to be imposed in case a person is found guilty.
- 38. Having regard to the entire aspect of the case and the serious nature of the offence, the accused-Dipak Kalita is sentenced to undergo rigorous imprisonment for 10 (ten) years and also to pay a fine of Rs. 10,000/- (Rupees ten thousand) only, in default of fine, to suffer further rigorous imprisonment for 10 (ten) months under Section 6 of the POCSO Act, 2012.
- 39. The period of detention already undergone by the accused shall be set-off from the period of imprisonment imposed on him.
- 40. Now , coming to the aspect of compensation to the victim , it is found that in this instant case, the victim has suffered from bodily pain and injuries on her person. She has also suffered tremendous mental agony as a result of the act committed upon her. Therefore, the Learned Secretary, District Legal Services Authority, Kamrup, Amingaon is, hereby, directed to assess and grant adequate compensation to the victim. The said compensation amount shall be used by the parents of the victim for her education and for her welfare.
- 41. Issue Jail Warrant.
- 42. Let a free copy of the judgment be furnished to the accused person.
- 43. Send a copy of this judgment to the Learned Secretary, District Legal Services Authority, Kamrup, Amingaon for determination of the quantum of compensation under Victim compensation scheme as provided under section 357 A Cr. P.C.

- 44. Send a copy of the judgment to the Learned District Magistrate, Kamrup, Amingaon under the provision of Section 365 Crpc.
- 45. Given under my hand and seal of this court on this 20<sup>th</sup> day of May, 2019.

Special Judge, Kamrup, Amingaon

# **Dictated and Corrected by me**

Special Judge, Kamrup, Amingaon

# **APPENDIX**

# **Prosecution Witness:**

P.W.1, prosecutrix

P.W.2, Smti Mamoni Das

P.W.3, Pradip Thakuria

P.W.4, Dhiraj Thakuria

P.W.5, is the M/O, Dr. Richa Pandey

P.W.6, Bhabani Devi

P.W.7, Nizara Kalita

P.W.8, Mohini Kalita

P.W.9, SI, Pradip Hazarika

# **Prosecution Exhibit**

Ext.1 is the statement

Ext.2 is the ejahar

Ext.3 is the medical report

Ext.4 is the forwarding for medical examination

Ext.5 is the command for medical examination.

Ext.6 is the sketch-map

Ext.7 is the charge-sheet

# **Defence Witness**

D.W.1, Sri Mukut Das

Special Judge, Kamrup, Amingaon