Page 1 of 4

IN THE COURT OF SESSIONS JUDGE, DARRANG, MANGALDAI.

Spl(POCSO) case No.38 of 2018

(U/S: 376(3) of I.P.C. R/W 4 of POCSO Act).

State -Versus-**Din Islam**

S/O: Md. Abdul Kadir Village- Gadaijhar P.S- Dalgaon Dist-Darrang(Assam)

--Accused.

PRESENT: Sri P.K. Bora, A.J.S., Sessions Judge. Darrang, Mangaldai.

APPERANCE:

Learned advocate for the State : Mr. Premeswar Sarma.

AND

Learned advocate for the accused :Mr.Saidur Rahman

Evidence recorded on : 05/07/19 and 13/08/19

Argument heard on : 13/08/2019

Judgment delivered on : 13/08/2019.

JUDGMENT:

- The case of the prosecution in brief is that on 31/07/2018 one Mamtaz Ali lodged an FIR before the O/C, Dalgaon Police Station stating that about one month back her daughter Purnima Begum was called on by the accused and she was raped and she was also intimidated not to disclose the fact to other. At that time the age of Purnima Begum was 15 years.
- 2. Having received the FIR, Police registered a case, investigated the matter and finally, Police submitted charge sheet against the accused U/S 376(3) I.P.C. read with Section 4 of POCSO Act.
- 3. On his appearance before this Court, the written charge U/S 376(3) I.P.C. read with Section 4 of POCSO Act was explained and read over to the accused to which he pleaded not guilty.

4. **Point for determination**:

(i) Whether the accused person committed rape on minor Purnima Begum?

REASON AND DECISIONS THEREON:

- 5. In the course of trial, the prosecution examined informant Mantaz Ali as PW1, victim PW2 Purnima Begum, PW3 Rahima Begum and PW4 Ali Saha.
- 6. In our case the informant (PW1) Mantaz Ali is the father-in-law of accused Din Islam. PW2 victim Purnima Begum and PW3 Rahima Begum are sisters. PW3 Rahima Begum is the wife of the accused Din Islam. PW4 Ali Saha is the brother of PW2 Purnima Begum and PW3 Rahima Begum.
- 7. PW1 (informant) Mantaz Ali filed this case on suspicion when he did not find Purnima in his house.

- 8. The victim(PW2) Purnima Begum's evidence is that there is no such incident that occurred on the day of the incident. Her father lodged a case against her brother-in-law accused Din Islam only because of the fact that her father did not find her in his house.
- 9. PW3 Rahima Begum stated that her husband accused Din Islam is innocent.
- 10. PW4 Ali Saha has stated before this Court that one day his father filed a case against the accused, who tried to get himself married with PW2 Purnima Begum, the sister of PW3 Rahima Begum. His father was annoyed after knowing that the accused tried to enter into a nuptial relationship with his sister-in-law PW2 Purnima after driving her sister Rahima Begum from her matrimonial home.
- 11. It is seen that the victim PW2 has not supported her earlier statement made before the Court during investigation. She gave incriminating evidence against the accused. It is seen that out of the two facts, one must be the true. But there is no evidence to show that the statement made before the I.O. by the victim or the other witnesses are true and the evidence made before the Court during trial is false. If go through the contents of the FIR, it will be seen that the FIR was lodged about 30 days from the date of the incident. The victim(PW2) Purnima Begum stated in her evidence before the Court during investigation that her elder sister learnt about the incident and she informed all the family members of her family. Thereafter, an FIR was lodged. Here the relationship between the victim and the accused is sister-in-law and the brother-in-law. There is hardly any material to show what made the victim feared to the accused against disclosing of the fact of rape. Before this Court, the victim(PW2) categorically stated that no incident occurred and the accused happens to be his brother-in-law. Therefore, it is seen that the vital witnesses suppressed the material facts. Therefore, a case showing involvement of the accused has not come out.

- 12. However, the prosecution has not been able to prove the case against the accused beyond all reasonable doubt. Hence, the accused Din Islam is acquitted and set at liberty forthwith.
- 13. Given under my hand and seal of this Court this 13th day of August, 2019.

(P.K. Bora) Sessions Judge, Darrang,Mangaldai.

Dictated and corrected by me.

Sessions Judge, Darrang, Mangaldai.

APPENDIX

- (A)Prosecution witnesses:
- (i)PW1 Mantaz Ali (ii)PW2 Purnima Begum
- (iii)PW3 Rahima Begum
- (iv)PW4 Ali Saha
- B) Defense witness: Nil.
- C)Exhibit:Nil

Sessions Judge, Darrang, Mangaldai.