Spl. (POCSO) Case No. 27/2018

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, FTC, BISWANATH CHARIALI,

SONITPUR, ASSAM

Spl. (POCSO) Case No. 27/2018

u/s Sec. 6 of POCSO Act, 2012

State of Assam

-VS-

Sri Paniram Gowala

..... Accused person

Present:

Sri Dipankar Bora, MA, LL.M., AJS,

Additional Sessions Judge, FTC, Biswanath Chariali, Sonitpur.

Advocates Appeared:-

For the prosecution: Smti J. Kalita, learned Addl. P.P
For the defence : Mr. P. Hazarika, learned Advocate

Date of recording Evidence: 02.04.2019.

Date of Argument : 02.04.2019.

Date of Judgment : 02.04.2019.

JUDGMENT

1. The prosecution case in brief is that on 29.06.2018 the informant Sri Jiban Gowala lodged an FIR with the OC, Biswanath Chariali PS stating inter alia that during the time of last Durga Puja, the accused took his fourteen-year-old daughter (name is withheld) to his house for domestic work. But as he indulged in sexual relationships with her in absence of his wife, his daughter by then had become pregnant by seven months. He alleged that on 20.06.2018, the wife of the accused after coming to their house led his daughter out after having a quarrel with her.

2. Receiving the same, the police registered a case and investigated the matter. After investigation, the police submitted charge sheet against the accused u/s 6 of the POCSO Act.

The accused person in due course, appeared before this court to face trial. The copies of the relevant documents were furnished to him. Taking note of the materials on record and the materials furnished u/s 173 CrPC, as this court found grounds for presuming that the accused person had committed an offence u/s 6 of POCSO Act, 2012, the charge was accordingly framed against him, which on being read over and explained, the accused person pleaded not guilty.

Addl. Sessions Judge Addl. Sessions Chariali, Sessions

Spl. (POCSO) Case No. 27/2018

4. During trial, the prosecution examined the informant and the alleged victim as PW 1 and PW2 respectively. Looking into the evidence as adduced by both these vital witnesses, the prosecution declined to examine the remaining witnesses contending that further evidence would not strengthen its case. After going through the evidence on record, the prosecution evidence was closed. As no incriminating evidence was found against the accused person, his examination u/s 313 CrPC was dispensed with. The case was thereafter argued by both the sides.

Points for determination

Whether the accused person being in a position of trust on or about the day of the alleged occurrence committed aggravated penetrative sexual assault on the said victim, who is below the age of 18 years of age?

Discussion, Decision and Reasons thereof

5. PW 1 is the informant and father of the alleged victim, namely, Jiban Gowala. He stated that the accused is his son-in-law. He testified that his daughter- the victim had love affair with the accused, which he did not know. He stated that during the time of the occurrence, the victim used to work in the house of the accused. Later she fled with him and got married. According to him, their marriage took place about 1 and 1/2 years ago and they have a child who is 7 months old. He stated that he had lodged the FIR out of misunderstanding. He categorically stated that he has no grievance against the accused.

PW 2-the victim stated that she had love affair with the accused and therefore she had gone with the accused on her own wish. They got married thereafter. Her father- PW1 had out of anger lodged the FIR out of anger. She stated that at the time of the occurrence,

gone with the accused on her own wish. They got married thereafter. Her father- PW1 had out of anger lodged the FIR out of anger. She stated that at the time of the occurrence, she was 18 years old. She stated that the accused is innocent and she has been living a happy conjugal life with him. She corroborated her father and stated hat her father had lodged the FIR out of misunderstanding.

7. Thus from the evidence of both these vital witnesses, more particularly, from the evidence of the alleged victim, we do not find any material against the accused person to convict him on the offence charged against him. The prosecution has failed to prove its case. As such I acquit the accused person from the offences charged against him and set him liberty forthwith. The provision of Sec. 437-A CrPC is not complied with after taking note of the evidence on record. A copy of the judgment be forwarded to the District Magistrate, Sonitpur in compliance with the sec. 365 Cr.P.C. The case is disposed of.

Given under my hand and seal of this court on this the 2nd day of April, 2019.

(D. BORA) 249 Additional Sessions Judge, FTC, Biswanath Chariali, Sonitpur, Assam.

Addl. Sessions Judge Biswanath Chariali, Sonitper

SESSIONS IN THE SOUTH OF THE SO

MAJUII)
Addi. 5855ions Juda
Addi. 5855ions Juda
Addi. 5855ions Juda
Addi. 5855ions Juda

ANNEXURE

Witnesses examined by the Prosecution:

PW1- Sri Jiban Gowala PW2- Victim

Exhibits proved by the prosecution witnesses:

None

Witnesses examined by the Defence:

None.



Documents exhibited by the Defence:

None.

Addl. Sessions Judge Biswanath Chariali, Sonitpur