BEFORE THE SPECIAL JUDGE ::::::::::::::::::::::: DHUBRI

Special Case No.12/2015

U/s.4 of POCSO Act

G.R. No. 2460/2014

State of Assam

- Vs –

Abul Kalam

Present   :   Sri Rajib Goswami, AJS
                Special Judge, Dhubri

Sri M. Zaman, Public Prosecutor, Dhubri for the State.
Sri I.U. Ahmed, Advocate for defence.

Date of Evidence   :   14-10-2015, 14-10-2015 and 11-12-2015.

Date of Judgment   :   05-01-2016.

J U D G M E N T

The prosecution case in brief is that on 15-06-2014 at around 12 noon the accused Kalam Uddin @ Abul Kalam had committed rape upon the minor daughter of the informant Kashem Ali at his own house at village Bhogdahar in his absence.

2.   The FIR was lodged at Bazar TOP under Dhubri Police Station and a case was registered by the O.C., Dhubri Police Station on 19-06-2014 U/s.4 of POCSO Act. Upon the FIR the I.O. of the case had filed charge sheet against the accused Abul Kalam U/s.4 of POCSO Act.

3.   Accused Abul Kalam appeared before the Court, charge U/s.4 of POCSO Act had been framed against accused Abul Kalam. Charge had been read over, explained and interpreted to the accused person to which, he pleaded not guilty and claimed to be tried.

4.   Prosecution had examined as many as 8 (eight) witnesses.   . Accused pleaded total denial and declined to adduce any evidence. Considering there being no incriminating evidence against the accused, the necessity to examine the accused u/s.313 of Cr.PC is done away with.

Point for determination

Whether on 15-06-2014 at 12 noon at village Bhogdahar under Dhubri P.S. Committed sexual assault on the victim?

5.   PW-1, Kashem Ali, the father of the victim and the informant had not implicated the accused in any manner whatsoever of having committed penetrative sexual assault on his daughter and as such the evidence of PW-1 is not consistent with the contents of FIR, ext-1 filed by him. He also admitted having not assigned any reason for the delay of almost 5 days in lodging the FIR at the Amco Road, Dhubri Bazar T.O.P.

6.   PW-6, the victim Kohinoor had also supported the version of her father, P.W-1 with regard to the case in the FIR. The PW-6 had also stated to have got into a clash with the accused involving a goat and later her father had filed the FIR against the accused. She had also not implicated the accused in any manner whatsoever of having committed sexual assault on her.

7.   PW-7, Dr. Anjumanara Ahmed, who had examined the victim, Kohinoor Khatun on 20-06-2014 had ruled out any sign of sexual intercourse. PW-7 had also opined that the victim's hymen was intact. However she had admitted there being evidence of physical assault with simple injuries.

8.   Now considering the evidence of the informant, the victim and the Medical Officer, I find not an iota of evidence against the accused Abul Kalam supporting the prosecution case with regard to the accusations with regard to accused Abul Kalam committing sexual assault on the victim.

9.   Coming to the evidence of PW-2, Ashiya Bibi, the mother of the victim, PW-3, Md. Abdul Sattar, PW-4, Md. Anowar Hussain, PW-5, Md. Hazarat Ali had expressed ignorance about the alleged occurrence.

10.   Thus summing up the entire discussion of the prosecution evidence on record, it is evident that the prosecution has failed to establish the prosecution case against accused Abul Kalam beyond all reasonable doubt. The accused is entitled to benefit of doubt and accordingly is acquitted of charge u/s.4 of POCSO Act and is set at liberty forthwith.

              Given under my hand and seal of this court on this the 5th day of January, 2016.

Dictated & Corrected by me

                                                            Special Judge, Dhubri

Special Judge, Dhubri.

A P P E N D I X

A.   Prosecution Witness.

         P.W-1 - Md. Kashem Ali
         P.W-2 - Musstt. Ashiya Bibi
         P.W-3 - Md. Abdul Sattar
         P.W-4 - Anowar Hussain
         P.W-5 - Hazarat Ali
         P.W-6 - Musstt. Kohinur Khatun
         P.W-7 - Dr.(Mrs) Anjumanara Ahmed
         P.W-8 - S.I. Prahlad Das

B.   Court Witness

         Nil

C.   Defence Witness

         Nil

D.   Prosecution Exhibits.

         Ext-1 -   FIR
         Ext-2 -   Medical Report
         Ext-3 -   Sketch Map.
         Ext-4 -   Charge sheet.

D.   Defence Exhibit

         Nil

                                   Special Judge, Dhubri