SPL. POCSO No. 14/17.

State.	•••• •••••	Complainant

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Thoiba Mia alias Jamir Ahmed. S/O Abdur Rahman. Vill. & P.O. Banshkandi Part-II. P.S. Lakhipur.

:::::: Accused.

U/S 366 IPC & U/s 4 of POCSO Act.

ORDER Dated 11-07-17.

Accused is produced from Jail Hazot. Today three P.Ws including the complainant, victim and their mother are present. They are examined as P.W.1, 3 and 2 respectively.P.W.2 is not cross-examined. Others are cross-examined and they are discharged. Considering the nature of evidence the learned P.P. has submitted for closure of the prosecution evidence on the ground that examination of any further witness would not in any way improve the prosecution case. Accordingly petition bearing No. 96/35 is filed. Sufficient force is found in the submission. Hence, evidence is closed. I would like to dispose of the case under provision of Sec 232 Cr.P.C..

Accused is examined. Heard argument of both sides.

In the instance case charges were framed U/S 366 IPC and U/s 4 of POCSO Act with the accusation that on 20-02-17 at about 5.00 p.m. the accused kidnapped the minor sister of the complainant and committed penetrative sexual assault on her. The charges when read out and explained, the accused pleaded not guilty.

P.W.1 is the complainant, the brother of the victim. According to him, at about 3-4 months back one day the victim was found missing. On search she being not found he lodged the ejahar. After 2-3 days during further search the victim was found in the house of the accused at Banshkandi, and with the help of police victim was recovered. He has further deposed that at the relevant time the victim was aged about 18-19 years.

In his cross-examination he has stated that after recovery it was reported by the victim that she got married with the accused. Subsequently it was settled in the village that as the victim got married with the accused there would be no hurdles for their further co-habitation as husband & wife and he has no grievance against the accused.

P.W.2 Chana Begumhas deposed that the victim is her daughter and aged above 18 years. She has further deposed that about three and half months back while the victimwas in their custody one day the victim went out to meet her elder sister but did not return. 4-5 days after that the victim was recovered. Presently they are willing to give marriage of the victim with the accused and the same was settled in the villagebichar. She deposed that she has no grievance against the accused.

P.W.3 NoorjahanBergum, the victim of this case,has deposed that she had love affairs with the accused. About four months back one day she went to the house of the accused at Bashkandi and got married with him as per Muslim Shariat. She has further deposed that as she without informing anything to any of her inmates, her brother lodged FIR against the accused. During her stay in the house of the accused she got married and she has no grievance against the accused.

From the above, it reveals that the victim at her own will went with the accused and in the absence of cogent evidence of age of the victim it also appears that at the material time she was of consenting age and subsequently both of them got socially married. Therefore, it can rightly be arrived at that there is no incriminating materials come out against the accused to establish the charged framed against the accused. The prosecution charges are therefore held to be not proved at all for want of implicating evidence. Accused is thus held to be not guilty of the offence as charged or whatsoever and he is therefore acquitted and set at liberty forthwith.

Bail bond stands discharged.

This order of acquittal is pronounced and delivered in the open Court under my seal & signature of this Court on this 11th day of July, 2017.

Special Judge. Cachar, Silchar.