

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

Spl. POCSO No. 26/2018

u/s 8 of POCSO Act, 2012
(Arising out of GR Case No. 295/18)

State of Assam

-vs-

Sri Prahlad Nath

..... Accused person

Present: Sri Dipankar Bora, MA, LL.M., AJS,
Additional Sessions Judge, FTC,
Special Judge,
Biswanath Chariali, Sonitpur.



Advocates Appeared:-

For the prosecution: Ms. J. Kalita, learned Addl. P.P

For the defence : Mr. G. Borah, learned Advocate.

Dates of recording Evidence : 05.01.2019, 04.04.2019,

17.06.2019, 24.01.2020.

Date of Argument : 24.01.2020

Date of Judgment : 24.01.2020.

JUDGMENT

1. The prosecution case in brief is that on 23.06.2018 the informant namely, Sri Phatik Nath lodged an 'ejahar' with the OC, Sootea PS stating inter alia that on the previous day at about 2 PM when his daughter (name is withheld) came to her class room for drinking water from the meeting that was being held in her school at that relevant time, the accused, a teacher of the school, misbehaved her. His daughter raised alarm and somehow managed to come out from the clutches of the accused.

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Receiving the same, the police registered a case and investigated the matter. After investigation, the police submitted charge sheet against the accused person u/s 8 of the POCSO Act.

3. The accused in due course appeared before this court to face trial. The copies of the relevant documents were furnished to him. Upon hearing both the sides on the point of charge, taking note of the materials furnished u/s 173 CrPC as this court found grounds for

presuming that the accused has committed an offence u/s 8 of the POCSO Act, the charge was accordingly framed against him, which on being read over and explained, the accused pleaded not guilty.

- During trial, the prosecution examined seven witnesses in all including the Investigating Officer as PW 7. As no incriminating evidence was found against the accused his examination u/s 313 CrPC was dispensed with. The case was thereafter, argued by both the sides.

Points for determination

Whether the accused on the day of alleged occurrence committed sexual assault on the victim, who is a child below the age of 18 years?

Discussion, Decision and Reasons thereof

- PW 1 is the informant and the father of the alleged victim, namely, Sri Phatik Nath. According to him, the incident took place on 26.06.2018. He stated that the victim was a student of Class X of Joysiddhi High School. The victim after returning back from the school stated to them that when a meeting was going on in her school, she came to her class room to drink water. The accused then came there and touched her chest. When he learned about the occurrence, he went to the Head Master, Binod Nath and informed him about the incident. He was called by the Head Master to the school on the next day morning and accordingly when he went to the school, the Head Master inquired about the incident from the accused, who is a teacher working in that school. He stated that other teachers of the school were too present at that relevant time where the accused confessed to his guilt. The Head Master of the School called the police and handed him over to them and thereafter he lodged the FIR, which he proved that as Ext. 1. In his cross, he stated that he has no personal knowledge about the said occurrence and he lodged the 'ejahar' on being asked by others.
- PW- 2 is the victim. She stated that on the day of the occurrence, a meeting was held in their school. As she felt illness, she came to her class room for drinking water. The accused who was her teacher enquired about her health and asked her to take rest and sleep. When the accused tried to switch on the fan, his hand touched her chest and she began crying. A few boys of her school noticed the same and enquired about the incident. She came back to her house and informed her parents about the matter. Her father took her to the Head Master of their school and matter was settled on the next day. In her cross, she stated that the accused had inadvertently touched her and she does not know as to why her father lodged the case. She had cried due to misunderstanding at that relevant time. Thus from the evidence of PW 1 and PW 2, we find that while the PW 1 stated in his evidence that he has no personal knowledge about the incident, the victim-the PW 2 on the other hand stated that the accused did not touch her with any bad intention but he

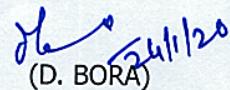


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touched her inadvertently.

7. PW -3 Sri Bijit Nath and PW- 4 Sri Jintu Nath have no personal knowledge as to how the incident occurred. PW 4 had heard from the victim that the accused had rebuked the victim for not going to the meeting. PW- 5 Sri Binod Nath corroborated PW 4 and stated that the accused had seen the victim sitting in her class room and therefore asked her to go to the meeting. He was not present at the place of occurrence but was in the meeting then.
8. PW 6- Smti Barnali Debi is the mother of the alleged victim. She has no knowledge as to what had happened in the school on that day. She could learn about the incident from the victim.
9. PW-7 is the Investigating Officer, Sri Lakhiji Kalita. He after investigation of the case had submitted charge-sheet against the accused, which he proved as Ext. 3. He contradicted PW 6 and stated that the said witness did not state before him that the accused had touched the chest of the victim with his hands.
10. Thus from the evidence of all the prosecution witnesses, more particularly, from the evidence of PW 2- the victim, we do not find any reliable evidence against the accused 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 offence charged against him and set him liberty forthwith. His bail bond stands discharged. The provision of Sec. 437-A CrPC is not complied with after taking note of the materials 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 24th day of January, 2020.



(D. BORA)

Additional Sessions Judge, FTC,
Biswanath Chariali, Sonitpur, Assam.

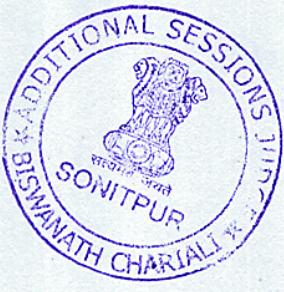
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ANNEXURE

Witnesses examined by the Prosecution:

PW1- Sri Phatik Nath,
PW2- Victim
PW3- Sri Bijit Nath
PW4- Sri Jintu Nath
PW5- Sri Binod Nath
PW6- Smti Barnali Debi
PW7- Sri Lakhi Kalita (I.O.)



Exhibits proved by the prosecution witnesses:

Exhibit-1: FIR
Exhibit-2: Rough Sketch Map
Exhibit-3: Charge-Sheet

Witnesses examined by the Defence:

None.

Documents exhibited by the Defence:

None.

[Handwritten signature]
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Biswanath Chariali, Sonitpur