Present :-Mr. R.A. Tapadar,AJS

Date: **03.02.2020**.

## SPECIAL CASE NO. 03 of 2019

(Under Section 366(A) of I.P.C. & Sec.4 of POCSO Act)

The State of Assam
-VersusMd. Abdur Rashid @ Rashid Hamid

.....Accused Person.

#### **APPEARANCE**

For the State......Mr. Sudhaman Ch. Ray, learned Addl.P.P.

For the Defence ....Mr. S.M. Shahjahan, learned Advocate.

Date of framing charge : 18-12-2019

Evidence recorded on :-24.01.2020.

Argument heard on :-03.02.2020

Judgment delivered on :- 03.02.2020.

## J U D G M E N T

- 1. Md. Abdur Rashid @ Rashid Hamid (hereinafter referred to as "accused") is before this court facing accusation for the commission of offence U/s.366(A) I.P.C. and Sec.4 of POCSO Act.
- 2. The prosecution case, in brief, is that the informant Md. Rofiqul Islam lodged an FIR before the Officer-in-Charge, Dhubri P.S. and *inter-alia* stated that on 9.9.18 at about 5-00 P.M, his minor daughter Miss. 'X' (hereinafter, referred to as victim) was kidnapped by the accused person from the road near to his house. The informant

stated that he searched his daughter and as such, there was delay in lodging the FIR. The informant has prayed to take action against the accused person.

- 3. Based on the FIR, the police registered Dhubri P.S. Case No. 1353/2018 U/s.366(A)/34 I.P.C and later added Sec.376 I.P.C R/W Sec.4 of POCSO Act pursuant to the order passed by the learned Chief Judicial Magistrate, Dhubri. During course of investigation, the accused person was arrested and he was remanded to judicial custody. After completion of the investigation, police submitted charge-sheet against the accused person U/s. 366(A)/376 I.P.C. R/W Sec.4 of POCSO Act.
- 4. By order dated 19.11.18, the learned Chief Judicial Magistrate, Dhubri sent the case record to the court of Special Judge, Dhubri and learned Special Judge, Dhubri transferred this case to this court for trial. Accordingly, the charges U/s. 366(A) I.P.C and R/W Sec.4 of POCSO Act were framed against the accused person. The charges were read over and explained to the accused person to which he pleaded not guilty and claimed trial. The prosecution in order to establish the guilt of the accused person examined as many as three witnesses. The defence choose not to lead any evidence. The statement of the accused person was recorded U/s. 313 Cr.P.C. The accused person pleaded innocence.
- Heard both sides.

#### 6. **POINTS FOR DETERMINATION**

i) Whether on 9.9.18 at about 5-00 A.M, the accused person induced the minor daughter of the informant to go from the road near the house of the informant to have illicit intercourse with her and thereby committed offence

punishable U/s.366(A) IPC.

ii) Whether on the same date, time and place, the accused person committed

penetrative sexual assault upon the minor daughter of the informant and thereby

committed offence punishable U/s.4 of POCSO Act.

8. **DISCUSSION, DECISION AND REASONS THEREOF:** 

I have gone through the F.I.R, the evidence on record and also considered the

submissions of both the parties.

9. The victim, PW-1, PW-2 and PW-3 father and mother of the victim stated in

their evidence that on the date of the incident, there was some altercations

between the victim and the accused person and due to misunderstanding, the

informant lodged an FIR against the accused person. The victim is presently

married with the accused person and she gave birth to a male child who is

currently 17 days. The evidence on record does not disclose commission of any

offences either U/s.366(A) I.P.C or Sec.4 of POCSO Act. Accordingly, the accused

person is acquitted from the charges U/s.366(A) I.P.C and Sec.4 of POCSO Act and

set at liberty, forthwith.

His bail bond shall remain in force for a period of six months in terms of

Sec.437A Cr.P.C.

Given under my hand and seal of this court on this 3rd day of February ,2020 at

Dhubri.

Dictated & Corrected by me

Shri R.A. Tapadar,AJS

Special Judge, Dhubri Special Judge, Dhubri

# APPENDIX

# A. **Prosecution Witnesses:**

PW- 1- Miss. 'X'

PW- 2- Md. Rofiqul Islam

PW- 3- Mustt. Sahida Khatun

# B. **Documents Exhibited by Prosecution:-**

Ext. 1 : F.I.R.

C. **Defence Witness** :- Nil

D. **Defence Exhibit**: Nil

Shri R.A. Tapadar, AJS Special Judge,Dhubri