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IN THE COURT OF SESSIONS JUDGE, DARRANG, MANGALDAI.

Spl(POCSO) case No.10 of 2019

(U/S:448 of I.P.C. R/W Section 8 of POCSO Act)

State Versus **Sri Gopal Seal**

S/O -Late Kuseswar Seal Village- Hirapara P.S- Dhula, Dist-Darrang, (Assam)

--Accused.

PRESENT: Sri P.K. Bora, A.J.S., Sessions Judge. Darrang, Mangaldai.

APPERANCE:

Learned advocate for the State: Mr. Premeswar Sarma.

AND

Learned advocate for the accused :Mr. A.S.Hilari

Evidence recorded on : 30/09/19 and 14/11/19

Argument heard on : 14/11/2019

Judgment delivered on : 14/11/2019.

JUDGMENT:

- The case of the prosecution in brief is that on 22/07/2018 one Mustt. Mafida Begum lodged an FIR before the O/C, Dhula Police Station stating that on the same date at about 4.30 p.m. finding her 10 year old daughter Suhana Parbin alone the accused embraced her and kissed her face. The accused also fingered over her chest.
- 2. Having received the FIR, Police registered a case. In the course of investigation, the I.O.-S.I. Mukut Chandra Deka seized one birth certificate, got the statement of the victim recorded in the Court and also got the victim medically examined at Mangaldai Civil Hospital. After completing the investigation, Police submitted charge sheet against the accused person in sessions triable offence.
- 3. On his appearance before this Court, the written charge U/S 448 I.P.C. read with Section 8 of POCSO Act explained and read over to the accused to which he pleaded not guilty.

4. Points for determination:

(i)Whether on the date of occurrence the accused committed criminal trespass into the house of the informant and thereby caused the offence of sexual assault to minor Suhana Parbin?

REASON AND DECISIONS THEREON:

- 5. In the course of trial, the prosecution examined PW1 Mafida Begum, PW2 Suhana Parbin, PW3 Ajit Nath and PW4 Saha Alam.
- 6. PW1 and PW4 are father and mother of the victim(PW2) Suhana Parbin.

- 7. Though PW1 proved her FIR as Ext.1, but in her clear language she states before this Court that the fact stated in her FIR is not true.
- 8. PW4 Saha Alam has stated that as per the advice of the villagers, his wife lodged a case against the accused and his daughter Suhana did not state anything against the accused.
- 9. PW3 Ajit Nath knew nothing about the incident.
- 10. Victim(PW2) Suhana Parbin has also stated before this Court that nothing offensive occurred.
- 11. The prosecution declared the victim(PW2) and her mother PW1 as hostile, but failed to shake the credibility of the evidence nullifying the prosecution case. A court is expected to do the justice. Justice defeats when parties are harassed by the system. The largely adorned legal principle is that justice must not only be done but must also appears to have been done. By profession PW4 is a driver. PW1 Mafida Begum is his wife. They may be ill-advised by others. It has come in the evidence of PW4 that as per advice of the villagers, his wife filed a case against the accused. The victim also did not support the prosecution story. In such a situation further proceeding with the case will be nothing, but an abusement of process of judicial time and power. Therefore, I think that justice can only be achieved if the further proceeding of this case is stopped and the accused is acquitted. Accordingly, I do it.
- 12. However, the prosecution case has not able to prove the case against the accused with credible evidence. The accused Gopal Seal is thus, acquitted and set at liberty forthwith.

13. Given under my hand and seal of this Court this 14th day of November, 2019.

(P.K. Bora) Sessions Judge, Darrang,Mangaldai.

Dictated and corrected by me.

Sessions Judge, Darrang, Mangaldai.

APPENDIX

- (A) Prosecution witnesses:
- (i)PW1 Mafida Begum (ii)PW2 Suhana Parbin (iii)PW3 Ajit Nath (iv)PW4Saha Alam
- (B) Defense witness: Nil.
- (C)Exhibits:
- (i)Ext.1 FIR

Sessions Judge, Darrang, Mangaldai.