IN THE COURT OF THE SPECIAL JUDGE: : TINSUKIA

Present: Sri P.J. Saikia,
Special Judge,
Tinsukia

POCSO Case No. 07 (T) of 2019
U/s.6 of POCSO Act

Appearance:

Sri B.L. Agarwal,

Special Public Prosecutor.....For the

State

Sri S. Sarma,

Defence Counsel.....For the

Accused

Date of Argument: 04.11.2019

Date of Judgment: 04.11.2019

J U D G M E N T

PROSECUTION CASE

1. The accused was in love with the 16 years old victim girl and on the basis of the said fact, while she was alone in the house, the

accused had physical relationship with her, as a result of which the victim became pregnant. It may be stated that the accused was already married, having two children.

2. In the mean time, the mother of the victim girl came to know about the pregnancy of her daughter, when she was three months pregnant. Therefore, she immediately lodged an ejahar before police alleging the aforesaid facts. During the period of investigation, the victim girl was subjected to medical examination. The doctor confirmed her pregnancy. The victim girl also gave a statement u/s.164 Cr.P.C.

3. **POINTS FOR DETERMINATION**

The only point for determination in this trial is as to whether the accused had committed penetrative sexual assault upon the victim girl.

4. **DECISION AND REASONS THEREOF**

In order to prove the offence against the accused, the prosecution side examined two witnesses, including the victim girl. I have carefully gone through the evidence available with the record. The defence plea is total denial.

- 5. Considering the nature of the offence, I shall first take up the evidence of the victim girl. She has, this time, claimed to be 20 years old. She has stated that on a promise of marriage, the accused had sexual intercourse with her, for which she became pregnant and subsequently, he married her. The victim has stated that she has already given birth to a male child. According to the victim girl, she has been living with the accused at present.
- 6. The mother of the victim girl has also supported the evidence of the victim girl. She has stated that now her daughter has married the accused and she has been living with him as his married wife.

7. After going through the evidence of these two witnesses, I find that the evidence failed to prove the most vital ingredients of offence u/s.6 of the POCSO Act and it is the sexual intention. The prosecution has failed to prove that the accused had criminally sexually assaulted the victim girl. The accused and the victim girl were in love. Therefore, they had sexual intercourse, for which the victim became pregnant. In my considered opinion, the offence u/s.6 of the POCSO Act has not been proved against the accused beyond all reasonable doubt.

ORDER

8. That being the position, the accused Rajesh Paharia is found not guilty and accordingly, he is acquitted from this case.

Given under my hand and seal of this Court on this the 4^{th} day of November, 2019.

Dictated & corrected by me.

Special Judge <u>Tinsukia</u> (**P.J. Saikia**) Special Judge Tinsukia

<u>APPENDIX</u>

PROSECUTION WITNESSES

- 1. PW1 Smti Mamoni Paharia
- 1. PW2 Smti Monika Paharia

Special Judge <u>Tinsukia</u>