## IN THE COURT OF ADDL. SESSIONS JUDGE :: KAMRUP :: AMINGAON

District: k	kamrup,	Amingaon
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Present: Smti. B. Kshetry

Addl. Sessions Judge,

Kamrup, Amingaon

Special Sessions (POCSO) case No.14/2017

U/S-8 of POCSO Act, 2012

State of Assam

-Versus-

Ainal Hoque

s/o-Lt. Soyed Ali

Resident of vill -Hatipara

P.S.-Chhaygaon

Dist- Kamrup

-----Accused

#### Appearance:

Mr. A.K. Baruah. Addl. Public Prosecutor -----for the State

Md. Lal Miya, Advocate ------for the accused

Date of evidence: 23.08.2018, 24.09.2018, 12.11.2018, 27.11.2018

Date of Argument:27.11.2018

Date of Judgment:27.11.2018

### **JUDGEMENT**

- 1. The Prosecution case in brief is that—the informants lodged this case against the accused person alleging that the accused is a teacher of Singimari Pukhuripar M.E School and he committed sexual assault upon the students of his school. And hence, this FIR.
- 2. On the basis of the said ejahar, Chhaygaon P.S Case No. 160/2016 U/S-8 of the POCSO Act, 2012 was registered. Investigation was conducted into the case and after completion of investigation, charge-sheet was submitted against the present accused person U/S- 8 of the POCSO Act, 2012.
- 3. The case was duly committed and this Court after hearing both the parties, framed charges U/S- 8 of the POCSO Act, 2012 against accused— Ainal Hoque. The aforesaid charge was read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
- 4. During the trial, the Prosecution side examined as many as fourteen (14) numbers of witnesses. Statement of the accused person U/S-313 Cr. P.C is dispensed with as there is no incriminating materials against him.

#### 5. **POINT FOR DETERMINATION**

(I) Whether the accused person being a teacher at Singimari Pukhuripar M.E School under Chhaygaon P.S used to touch the private parts of the students of your school, aged below 18 years and thereby committed sexual assault within the meaning of section 7 of the POCSO Act, 2012 and, thereby, committed an offence punishable U/S-8 of the POCSO Act, 2012 ?

#### 6. **DISCUSSION, DECISION AND REASONS THEREOF**

Perused the record. In support of the case, prosecution examined fourteen (14) witnesses.

- 7. Let us go through the evidences available on record.
- 8. P.W.1, Sri Basudev Das is one of the informant of this instant case. He knows the accused person. He is a teacher of Singimari Pukhuripar M.E. School. P.W.1 stated that the incident took place 2 years ago. in the evening time when he returned from the field some village youths stopped him on the way and asked him to put his signature in a piece of paper and accordingly he signed the paper. He did not know anything about the incident nor heard about it. His son was studying in that school in class-VII at the time of incident. Ext.1 is the ejahar. Ext.1 (1) is his signature.
- 9. P.W.2, Namal Kalita has deposed in his evidence that he does not know anything about the incident nor heard about it. He also did not know what is written in the ejahar. This witness disclosed that police asked him to put his signature in the ejahar stating that the accused tortured the students of the school and accordingly, he put his signature on it. Ext. 1 (2) is his signature in the ejahar Ext.1.
- 10. P.W.3, Pranabi Biswas is also one of the informant of this case. She was studying in class-VIII at the time of occurrence. The accused is a teacher of her school. This witness revealed that the accused did not do any bad act with her or any other students of the school. She further disclosed that the ejahar was given by her along with other informants as tutored by villagers---Nurul and Sukur. Ext.1 (3) is her signature in the ejahar.
- 11. P.W.4, Munindra Biswas, President of Singimari Pukhuripar M.E. School and P.W.5 Somer Ali Ahmed, Assistant Teacher of Singimari Pukhuripar M.E. School. They deposed in their evidence that they did not know anything about the incident nor heard about it. .
- 12. P.W.6, Jamaluddin Saikia, Retd. Teacher of that school and P.W.7, Md. Hassan Ali, Asst. teacher also deposed that they did not know anything about the

incidnet nor heard about it. P.W.7 stated that none of the students or guardians were informed them about the incident.

- 13. P.W.8, Ramesh Rajbongshi, Asstt. Teacher and P.W.9 Moniram Talukdar, 4<sup>th</sup> grade employee also stated that they did not know anything about the incident nor heard about it.
- 14. P.W.10, Gitika Mandal and P.W.11 Pranati Roy are the students of that school. They deposed that at the relevant time she was studying in the Singimari Pukhuripar M.E School. Both the witnesses stated that the accused did not do any bad act with them or with any other students of the school. They did not heard about the incidnet also.
- 15. P.W.12, Lakhi Biswas P.W.13 Krishna Rabha and P.W.14 Prasenjit Sarkar deposed that incident occurred 2 years ago when they are studying in Singimari Pkhuripar M.E. School. This witness revealed that no incident as alleged in the ejahar had taken place on the date of occurrence. The accused did not do any bad acts with the students of the school. The witnesses also disclosed that some village youths obtained their signatures in a blank paper but they did not hear anything about the incident. Ext. 1 (4), 1 (5) and 1 (6) are their signatures respectively.
- 16. I have heard the arguments of both the sides. Perused the evidences on record.
- 17. Learned Counsel for the accused further argued that the accused has been falsely implicated in this case and there are contradictions in the material points.
- 18. In this case , charge was framed u/s 8 of POCSO Act . Now , question comes, whether the offence committed by the accused falls u/s 8 of POCSO Act or any other offence . Now, **Sexual Assault** is defined **U/S 7 of POCSO Act** as "Whoever , with sexual intent touches the vagina , penis , anus or breast of the child or makes the child touch the vagina , penis ,anus or breast of such person or any other person , or does any other act with sexual intent which involves physical contact without penetration is said to commit sexual assault." **Section 8 of POCSO Act** prescribes the punishment for the offence u/s 7of the Act.

- 19. On perusal of the evidences on record it comes out clearly that none of the witnesses have involved the accused in the commission of offence of sexual assault on the students. The P.Ws have made it clear that they neither saw the incident of sexual assault nor heard anything about it. It is in the evidence of P.W.3 that the ejahar was given by her along with other informants as tutored by village youths. Other P.Ws P.W.12, P.W.13 and P.W.14 who were the students of Singimari Pukhuripar M.E. School disclosed clearly that no incident as alleged in the ejahar had taken place on the date of incident and the accused did not do any bad act with the students of that school. They further disclosed that some village youths took his signature in a piece of paper but he did not know anything about the incident. So, the offence U/S- 8 of the POCSO Act is not at all attracted in this instant case.
- 20. In the result, the prosecution has miserably failed to prove the case beyond all reasonable doubt against the accused person—Ainal Hoque. Accordingly, the accused person is held not guilty and he is hereby acquitted of the offence U/S-8 of the POCSO Act, and set at liberty forthwith. Bailor is discharged from the liabilities of the bail bond.
- 21. The Judgment is pronounced in open Court and written on separate sheets.

Given under my hand and seal of this Court on this 27<sup>th</sup> day of November, 2018.

Special Judge, Kamrup, Amingaon

# **APPENDIX**

## **Prosecution Witness:**

P.W.1, Sri Basudev Das

P.W.2, Namal Kalita

P.W.3, Pranabi Biswas

P.W.4, Munindra Biswas

P.W.5, Somer Ali Ahmed

P.W.6, Jamaluddin Saikia

P.W.7, Md. Hassan Ali

P.W.8, Ramesh Rajbongshi

P.W.9, Moniram Talukdar

P.W.10, Gitika Mandal

P.W.11 Pranati Roy

P.W.12, Lakhi Biswas

P.W.13 Krishna Rabha and

P.W.14 Prasenjit Sarkar

## **Prosecution Exhibit**

Ext.1 is the ejahar.

Special Judge, Kamrup, Amingaon