IN THE COURT OF ADDL SPECIAL JUDGE ::KOKRAJHAR

Present :- Sri C. Chaturvedy,

Addl. Special Judge

Kokrajhar.

SPECIAL CASE NO.24/2017 U/S.364(A)/34/I.P.C.

STATE OF ASSAM

Vs

Sri Azizul Hoque S/O Abdul Jalil Ahmed village Padmabil, Gossaingaon

...... Accused person.

Appearance: -

Learned Counsel for the State Mr. Manjit Ghosh, Special P.P

Learned Counsel for the defence Mr. Iqbal Ahmed

Charge framed on 26.11.2018

Evidence recorded on 4.1.2019, 21.1.2019

Argument heard on 21.1.2019

Judgment pronounced on 21.1.2019

JUDGMENT

1. The case of the prosecution is that on 19.5.2017 one Md. Anowar Hussain lodged a writen FIR at Sapkata Police Out-post alleging that accused Azizul Hoque, Head-master of Goladangi M.E. Madrassa, had dragged and kissed victim No. 1 and victim No. 2 while they were going to

attend to their classes. The FIR was registered at Gosaingaon Police Station for offences under Section 354/354A(i)(ii) IPC read with Section 4 of the Protection of Children from Sexual Offences Act, 2012 and investigated.

- 2. After completion of the investigation, a charge sheet was laid against the accused Azizul Hoque for commission of offence U/S 354/354A IPC read with Section 8 of the POCSO Act.
- 3. The accused person was summoned and on his appearance, copies of the relevant documents were furnished to him. After hearing both the sides charges under Section 8 of the POCSO Act was framed against the accused to which he pleaded not guilty and claimed to trial.
- 4. In the course of trial prosecution examined 4 witnesses. At the closure of prosecution evidence, the accused person was examined U/S 313 of the Cr.P.C. The defence plea is of total denial and the accused declined to adduce any evidence.

POINTS FOR DETERMINATION:-

(i) Whether the accused is guilty of offence under Section 8 of the POCSO Act?

DECISION AND REASONS:

5. Pw 1 is the victim No. 1 of this case and she deposed that the incident occured about 1 year back. On that day, after the morning prayers, she along with some her friends were talking. At that time the accused came and slapped her on my back (the victim refers the area just below her

neck) and asked her to go inside the class room. She then went to her class room. She also deposed that her father lodged the case against the accused and that she was produced before the Magistrate for her statement under Section 164 CrPC.

- 6. In cross-examination she deposed that she had given the statement under Section 164 CrPC, under the instigation of villagers.
- 7. Pw 2 is the other victim of the case and she deposed on the identical lines to that of pw 1. According to pw 2 the incident occured about 1 year back and on that day after the morning prayers her friend informed her that after morning prayers while she was talking with some friends the accused came and slapped her on her back and asked her to go inside the class room.
- 8. In cross-examination she deposed that accused did not commit any bad act with her and that she has personally not seen the occurrence which took place with respect to victim No. 1.
- 9. Pw 3 is the father of the victim No. 1 and he deposed that when he came to know that acccused has beaten his daughter, the victim No. 1, he lodged the FIR out of anger.
- 10. The evidence reproduced above shows that no elements of the offence under Section 8 of the POCSO Act or for that matter any other offence is available. The prosecution witnesses do not support the charge against the accused.

11. The point for determination is answered in negative.

ORDER

Accused Azizul Hoque is acquitted of the charge under Section 8 of the POCSO Act and set at liberty forthwith.

Bail bonds shall remain valid for six months.

Given under the hand and seal of this Court on this 21st day of January,2019.

Dictated by

Addl. Special Judge Kokrajhar Addl Special Judge Kokrajhar

<u>Appendix</u>

Exhibit-1 Statement of victim
Exhibit-2 Statement of victim

Exhibit-3 FIR

Exhibit-4 Charge sheet

2. <u>Defence Exhibit</u> Nil

3. Prosecution Witness

P.W.1 Victim
P.W.2 Victim

P.W.3 Father of the victim
P.W.4 ASI Dimbeswar Das

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4.<u>Defence Witness</u> Nil

5. <u>Court witness</u> Nil

Addl. Special Judge(FTC), Kokrajhar