HEADING OF JUDGEMENT IN SPECIAL CASES:

DISTRICT: DHUBRI.

IN THE COURT OF SPECIAL JUDGE: DHUBRI.

SPECIAL CASE NO: 18/2017
UNDER SECTIONS: 376 IPC
READ WITH SECTIOM 4 OF THE POCSO ACT.

STATE OF ASSAM

VS.

MAHIZUDDIN SHEIKH

PRESENT:- DIPAK THAKURIA,
SPECIAL JUDGE,
DHUBRI.

APPEARANCES:-

B. R. BASUMATARI, SPECIAL P. P. FOR THE STATE.
M. A. AHMED, ADV. FOR THE DEFENCE.

DATE(S) OF EVIDENCE:- 24-07-2017, 25-08-2017,

01-11-2017, 18-01-2018.

DATE OF ARGUMENT:- 20-03-2018.

DATE OF JUDGMENT:- 03-04-2018.

<u>JUDGEMENT</u>

- **1.** Accused Mahizuddin Sheikh stands trial for the offences punishable under sections 376 IPC read with section 4 of the POCSO Act.
- 2. The facts of the case, as revealed from the ejahar, in brief, are as follows:- that on 24-08-2015 the complainant filed a written ejahar before the Superintendent of Police, Dhubri with an allegation that on that day at about 4.45/5 a.m. while his minor daughter

- was cleaning cowshed then the accused gagged her mouth and attempted to rape on her. His daughter while raised alarm then the accused ran away from the spot.
- 3. After receiving the ejahar, S. P. Dhubri forwarded the same to Tamarhat police station for registration a case and also directed to take necessary action. A case as Tamarhat P. S. Case No. 241/2015 under sections 447/376/511/506 IPC was registered and subsequently section 4 of POCSO Act was added.
- **4.** The investigating officer arrested the accused and produced him before the Court and remanded to judicial custody, recorded the statements of witnesses under section 161 Cr. P. C. and statement of the victim was also recorded under section 164 Cr. P. C. and submitted charge sheet against the accused person to prosecute him under sections 447/376 IPC read with section 4 of POCSO Act.
- **5.** During investigation the accused was granted bail.
- **6.** After taking the cognizance of the case, process was issued to accused. Accused appeared and allowed him to remain on previous bail. Copies were furnished to the accused and after hearing both the parties and perusal the case record and case diary my learned predecessor was pleased to frame formal charges against the accused under sections 376 IPC read with section 4 of POCSO Act. Charges so framed were read over and explained to the accused which he pleaded not guilty and claimed to be tried.
- **7.** The prosecution examined seven witnesses and closed the evidence. Judicial Magistrate who recorded the statement of the victim girl under section 164 Cr. P. C was recorded as Court witness.
- **8.** After completion of the prosecution evidence, the statement of the accused was recorded u/s 313 Cr. P. C. by putting questions to him from all incriminating evidence appearing against him on record and thereby giving him an opportunity to meet the same. In response to which, the accused denied the allegations as well as evidence on record and also declined to adduce evidence in defence.
- **9.** Heard learned counsels appearing for the parties and perused the evidence on record.

FOLLOWING POINTS HAVE BEEN SET UP FOR DETERMINATION

Whether the accused on 24-08-2015 at about 4.45/5 a.m. at village Bhatipetla under Tamarhat police station committed rape on the minor daughter of the complainant and thereby accused is liable to be punished under section 376 IPC?

Whether the accused on the same day time and place committed penetrative sexual assault to the minor daughter of the complainant and thereby accused is liable to be punished under section 4 of the POCSO Act?

DISCUSSIONS ON THE POINTS FOR DETERMINATION AND THE DECISION ARRIVED THEREON WITH REASON:

- **10.**In order to establish the charges against the accused, the prosecution has examined seven witnesses. Among them P. W. 5 is the complainant and the father of the victim girl. P. W. 1 is the mother of the victim, P. W. 3 is the uncle of the victim girl and P. W. 6 is the victim girl. P. W. 2 is the aunt of the alleged victim and P. W. 4 Amena Bibi is the independent witness and P. W. 7 Prabin Ch. Nath is the investigating officer. C. W. 1 Boloram Kshetry is the Judicial Magistrate who recorded the statement of the victim under section 164 Cr. P. C.
- **11.** The defence examined none. Plea of the defence is total denial of the case.
- 12. Learned Special Public Prosecutor has submitted that the offence is heinous in nature. The accused who is an old person by entering into the compound of the complainant misbehaved a young girl who is the age of his granddaughter. The prosecution examined all the important witnesses and all the witnesses have corroborated each other. There is nothing to disbelieve the prosecution witnesses. The prosecution is able to establish the charges against the accused beyond all reasonable doubt. So, has prayed to hold the accused guilty under framed charges and impose adequate punishment to him.
- **13.** On the other hand learned counsel appearing for the defence has submitted that the allegation against the accused is serious in nature. To prove the charges the prosecution has to establish the charges against the accused beyond all reasonable doubt which the prosecution has failed to do so. Out of seven witnesses five are relatives. One is

independent witness and another is investigating officer. None of the non-official witnesses had seen the incident. The evidence of the alleged victim is not believable as her deposition has not corroborated. The prosecution has not examined medical officer as medical officer detected nothing. The non-official witnesses tried to improve the case during trial. As the prosecution has failed to establish the charges framed against the accused; so, he deserves benefit of doubt. Hence, has prayed to acquit the accused.

- **14.**Before we proceed, let us reproduce the material parts of the witnesses examined by the prosecution during trial.
 - P. W. 1, mother of the victim, has deposed that at the time of the alleged incident, she was sleeping in her house. The victim had been to the cowshed to bring out the cows. There, the accused grabbed the victim girl from behind and committed rape on her. Hearing the cries of the victim girl, she went to the place of occurrence. The accused then pushed her aside and fled away. In cross-examination she has admitted that she had not seen the accused committing rape on the victim girl. At the time of the incident, her husband, mother-in-law and others were present in the house. She has denied the suggestion of the defence that she did not tell the police that the accused grabbed the victim girl from behind and committed rape on her. She has denied the suggestion of the defence that they had land dispute with the accused and therefore, they had falsely implicated the accused in this case.
 - 14.2 P. W. 2 is the aunt of the alleged victim who has deposed that her house is situated in between the house of the accused and the victim girl. The alleged incident occurred at around 06:00 a.m. While she was cleaning the courtyard of her house, she saw the accused was running away from the house of the victim girl. Thereafter, she saw the parents of the victim girl proceeding towards the house of the accused. Her husband then stopped them and asked what the matter was. They told her husband that the accused had committed rape on the victim girl. Her husband then stopped them from going to the house of the accused and asked them to take recourse of the law. In cross-examination she has deposed that she forgot the date and time of the alleged incident. She had not seen the accused committing rape on the victim girl. She denied the suggestion of the defence that she did not see that the accused was running away from the house of the victim girl.

- 14.3 P. W. 3 is the uncle of the victim girl. He has deposed that his house is situated in between the house of the accused and the victim girl. The alleged incident occurred at around 06:00 a.m. He saw the accused was running away from the house of the victim girl. Thereafter, he saw the father of the victim girl was proceeding towards the house of the accused. He then stopped him and asked what the matter was. He told him that the accused had committed rape on the victim girl. He then stopped him from going to the house of the accused and asked him to take recourse of the law. In cross-examination he has admitted that he had not seen the incident and he could not say the date of the incident.
- P. W. 4 Amena Bibi has deposed that at the time of the alleged incident, hearing a hue and cry in the house of the victim she went there and saw that the accused was running away from the house of the victim. The victim told her that the accused grabbed her and committed rape on her. In cross-examination she has deposed that she had not seen that the accused committed rape on the victim girl. She has denied the suggestion of the defence that she did not tell the police that the accused grabbed the victim girl and committed rape on her. She has denied the suggestion of the defence that the accused had land dispute with the parents of the victim girl and therefore, the accused has been falsely implicated in this case. She has denied the suggestion of the defence that she did not see the accused was running away from the house of the victim girl.
- 14.5 P. W. 5 is the father of the victim girl and the complainant of the case. He has deposed that at the time of the alleged incident, he was present in his house. At around 05:30/06:00 a.m., while his daughter had been to the cowshed to bring out the cows, the accused grabbed her and committed rape on her. Hearing the cries of the victim girl, his wife went to the place of occurrence. The accused then pushed aside his wife and fled away. While he and his wife were proceeding towards the house of the accused, then Osman Ali and his wife asked him to inform the villagers or to take recourse of the law. He then called the President and the Member of the Panchayat and told them about the incident and asked them to decide the matter. But, as the accused did not come, they could not decide the matter. Therefore, he filed

the FIR of this case against the accused. He put thumb impression in the FIR. In cross-examination has deposed that he had not seen that the accused committed rape on the victim girl. He could not say the date of the incident. As the police did not ask him, he did not tell the police that he called the President and the Member of the Panchayat and told them about the incident and asked them to decide the matter. Many people reside near the place of occurrence and after the incident; many people came to the place of occurrence. He lodged the FIR on the day of the incident itself. After four days, the police visited the place of occurrence. He has denied the suggestion of the defence that he had land dispute with the accused and therefore, had filed this case against the accused.

14.6 P. W. 6 is the victim. She has deposed that on the day of the occurrence, after the Morning Prayer (Fazar Namaz), while she had been to their cowshed to bring out the cows, coming from behind, the accused Mahizuddin Sheikh grabbed her, gagged her mouth by his hand, put her on the ground and inserted his penis in her vagina. She then cried out and hearing her cries, her mother arrived. The accused then pushed aside her mother and fled away. Thereafter, her father filed this case. Her statement was recorded by the Magistrate in the Court. She was also sent to the hospital for medical examination and the Medical Officer examined her. In cross-examination she has deposed that the house of Osman is situated in between her house and the house of the accused. The Mosque is situated on the Western side of their house. Many people go to the Mosque to offer prayers. After offering Namaz, the accused came to their house and grabbed her from behind. She does not remember the date of the occurrence. She has denied the suggestion of the defence that she did not tell the police that the accused grabbed her from behind, pushed her down on the ground and inserted his penis in her vagina. She has denied the suggestion of the defence that no such incident had occurred and her father filed a false case against the accused. The accused had quarreled with Osman Goni over boundary dispute. A village meeting was held for the same and her father attended the said meeting. She has denied the suggestion of the defence that her father and Osman Goni were not satisfied with the decision of the meeting and hence her father has filed this case against the accused. She has denied the suggestion of the defence that she had not gone to the cowshed to bring out the cows. When the accused inserted his penis in her vagina, she felt pain. She did not sustain bleeding wound. She has denied the suggestion of the defence that the accused has not committed anything to her and she had deposed falsely. She has denied the suggestion of the defence that they had old enmity with the accused and therefore, she deposed falsely against the accused.

14.7 P. W. 7 Prabin Ch. Nath is the investigating officer. He has deposed that on 28-08-2015, he was posted at the Paglahat Watch Post under Tamarhat Police Station as the In-charge. On 27-08-2015, the Officer In-Charge of the Tamarhat Police Station received the FIR of the case and registered a case and entrusted him to investigate the case. Ext-1 is the said FIR and ext-1 (1) is the signature of the Officer In-Charge. During the course of investigation, he visited the place of occurrence and prepared a site plan. Ext- 2 is the said site plan and ext- 2 (1) is his signature therein. Thereafter, he recorded the statements of the complainant and other witnesses. He also recorded the statement of the victim girl who was just 12 years. He also sent the victim girl for medical examination and collected the Medical Report. Ext- 3 is the Medical Report. He also sent the victim girl to the court for recording her statement under section 164 Cr.P.C. and her statement was recorded by the Magistrate. He arrested the accused and forwarded him to the Court. After completion of investigation, he submitted the charge sheet under Sections 447/376 IPC r/w Section 4 of the POCSO Act against the accused Mahizuddin Sheikh. Ext- 4 is the charge sheet and ext- 4 (1) is his signature therein. In cross-examination he has deposed that the alleged incident occurred on 24-08-2015 and the FIR was submitted before the Superintendent of Police, Dhubri on 24-08-2015. He wrote to the Doctor to ascertain the age of the victim girl by conducting medical examination. The houses of Osman Ali and Ajitullah Sheikh are situated near the place of occurrence. He had not recorded the statement of any other witnesses except the witnesses cited in the charge sheet. He did not record the statement of Ajitullah Sheikh as a witness as he did not find him._PW-1 did not tell him that the accused grabbed the victim girl and committed rape on her. PW-2 did not tell him that the accused grabbed the victim girl and committed rape on her._PW-4 did not

tell him that the accused grabbed the victim girl and committed rape on her. P. W-5 did not tell me that over the said incident, a meeting was held with the President and Member of the village Panchayat. He met the parents, grandmother and some neighbours of the informant at the place of occurrence.

- 14.8 C. W. 1 Boloram Kshetry who was working as Judicial Magistrate First Class, Dhubri at the relevant time has deposed that on 29-08-2015, Chief Judicial Magistrate, Dhubri directed him to record the statement of victim u/s. 164 Cr.P.C. in connection with Tamarhat P.S. Case No. 241/2015. As per direction of Chief Judicial Magistrate, Dhubri the victim who was a 12 years old girl produced before him. The victim was produced and identified by WHG/Purnima Ray. The victim was given sufficient time for reflection of her mind. After coming to the satisfaction that victim was not under any influence, he recorded her statement u/s. 164 Cr.P.C. After recording her statement, it was read over and explained to her. His Bench Assistant obtained her thumb impression in his presence and thereafter, he put his signature in the statement. Ext-I is the statement of the victim girl and ext-I(1) is his signature. After recording her statement she was given zimma to her parents.
- **15.**On perusal the evidence on record it appears that P. W. 5, the father of the alleged victim lodged the ejahar before Superintendent of police, Dhubri and on the basis of the ejahar a case at Tamarhat police station being number Tamarhat P. S. case No. 241/2015 under sections 447/376/511/506 IPC was registered and thereafter section 4 of POCSO Act was added. On perusal the contents of the ejahar (Ext. 1) it appears that the complainant (P. W. 5) alleged that the accused on 24-08-2015 at about 5 a.m. entered into his cowshed, embraced his minor daughter, gagged her mouth and attempted to commit rape on her. In the meantime his wife called his daughter (the alleged victim) and then the accused ran away and other persons had seen the accused that he ran away from his house.
- **16.**Undoubtedly the alleged victim is the vital witness in this case. Her deposition shows that the accused on the day of the incident in the early morning while she was in cowshed then the accused entered into the cowshed, grabbed her, gagged her mouth by his hand, put her on the ground and inserted his penis in her vagina. In the meantime her mother arrived at the spot and then the accused pushed her away and ran away.

The prosecution examined the mother of the alleged victim who has fully corroborated the oral evidence of her daughter. From the deposition of the mother of the alleged victim it appears that the accused entered into her cowshed in the early morning, grabbed her daughter and raped on her and ran away by pushing her. P. W. 2 and P. W. 3 have also deposed that the accused, on the day of the alleged incident was running away from the house of the complainant. The father of the complainant told them about the incident.

- 17. From the evidence of the complainant, his wife and the alleged victim it clears that on the day of the alleged incident the accused entered into the cowshed of the complainant. The defence though categorically cross-examined all the witnesses; but had not denied the allegation that the accused on the day of the alleged incident entered into the cowshed of the complainant. The reason of entering into the compound of the complainant in the early morning of the day of the alleged incident has not disclosed by the accused either in his statement recorded under section 313 Cr. P. C. or in cross-examination of the material prosecution witnesses.
- **18.**As per prosecution, the accused after entering into the cowshed of the complainant grabbed the mouth of the alleged victim who is a minor girl who at that time was bringing out the cows from cowshed. While she raised alarm then her mother saw the incident and the accused put aside the mother of the alleged victim and ran away. The aunt and the uncle (P. W. 2 and P. W. 3 respectively) and the independent witness Amena Bibi (P. W. 4) had seen that the accused on the day of the incident was running away from the house of the complainant.
- **19.**Though P. W. 2, 3 and 4 had not seen the incident; but they had seen that the accused was running away from the house of the complainant and their oral testimonies are relevant as per section 6 of the Indian Evidence Act. In normal situation no one runs away from the house of any other. If the accused visited the house of the complainant without any ill motive then question of running away from his house does not arise. Now the question arises as to why the accused was compelled to run away from the house of the complainant. The answer is clear that the accused on that morning misbehaved the minor girl of the daughter of the complainant and while the alleged victim raised alarm, the accused just to save his skin was compelled to run away.
- **20.** The alleged victim has deposed that she was grabbed by the accused, gagged her

mouth and put her on ground and raped on her. Of course no one had seen the commission of rape. The mother of the alleged victim immediately came out from her house and she had also not seen that the accused committed rape on her daughter. The father of the alleged victim on the day of the alleged incident lodged the ejahar and in the ejahar he has stated that the accused attempted to rape on his daughter and O. C. Tamarhat P. S also registered the case under section 376/511 IPC with other sections. Record shows that the alleged victim was produced before the Judicial Magistrate for recording her statement after five days of the incident. Learned Judicial Magistrate (C. W. 1) has recorded her statement on oath. On the day of recording the statement, the alleged victim was 12 years old. Learned Judicial Magistrate neither tested her maturity by putting some questions before recording her statement nor has also not given any certificate regarding understanding of maturity of the alleged victim. As on the day of recording the statement of the alleged victim she was just 12 years old; so, learned Judicial Magistrate should not record her statement on oath as she at that relevant time was not mature enough to understand and consequence of oath. So, the statement of the alleged victim (Ext. I) recorded by Judicial Magistrate (C. W. 1) is not as per law and hence the statement of alleged victim (Ext. I) is not taken in consideration.

- 21. The prosecution has not examined the medical officer who examined the alleged victim; but through investigating officer the prosecution has exhibited the medical report which has been marked as Ext. 3. On perusal the Ext. 3 it appears that she was examined on 01-09-2015 at about 11.30 a.m. The alleged victim told the medical officer that one person tried to sexually assault her. On examination of the report of medical officer it appears that the medical officer found everything normal and the clinical opinion of the medical officer was not consistent with recent sexual intercourse/assault. As the alleged victim girl was just 12 years old at the time of the alleged incident, if the accused was able to enter his genital as stated by the alleged victim definitely the medical officer would be able to find out that hymen of the alleged victim had torn. But the medical officer's report has stated nothing regarding hymen of the alleged victim. So far examination of external genitalia is concerned the medical officer detected all normal. The medical officer detected no injury on the part of the alleged victim.
- **22.**There is no evidence in the case record that after the arrest of the accused he was produced before medical officer with a view to collect evidence as per provision of section 53-A Cr. P. C.

- 23.To book the accused under section 376 IPC or section 4 of the POCSO Act the prosecution has to fulfill the requirements of section 375 of IPC and section 3 of POCSO Act. As per section 375 IPC a man is said to commit "rape" who except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the descriptions mentioned in that section. Likewise section 3 of POCSO Act defines the penetrative sexual assault. It provides that if a person penetrates his penis, to any extent, into the vagina, mouth etc of a child then the person is liable to be punished under section 4 of the POCSO Act. In the case in hand, after perusal the materials on record it appears that there was no penetration of the male organ of the accused to the vagina of the alleged victim. So, there is no iota of doubt that the prosecution has failed to establish the charges against the accused either section 376 IPC or section 4 of the POCSO Act.
- **24.** Now let us scrutinize whether the act of the accused covers any of the penal provision or not. Section 7 of the POCSO Act defines sexual assault. It provides that a person is said to commit sexual assault if he with sexual intent touches the vagina, penis, anus or breast of a 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.
- 25. In the case in hand, the accused on the day of the alleged incident in the early morning entered into the house of the complainant, grabbed the alleged victim, gagged her mouth and put her on the ground. The defence while cross-examined the prosecution witnesses has put a suggestion that there was enmity between the complainant and the accused and that is why a false case was filed against him. All the prosecution witnesses denied the suggestion. The defence has failed to substantiate the plea of enmity taken in cross-examination by adducing cogent evidence. The defence has failed to show any good ground that the complainant filed a false case against him. So entry of the accused into the compound of the complainant in early morning itself doubtful. His act towards the alleged victim was indecent. By grabbing the alleged victim, gagging her mouth and putting her on ground clearly shows that the indecent act of the accused was with sexual intent which involves physical contact without penetration.
- **26.** During argument learned defence counsel has cited a decision of the Hon'ble Gauhati High Court passed in Raj Hussain vs. State of Assam (2017) 1Gauhati Law Reports 281.

- Perused the decision of the Hon'ble Gauhati High Court. The facts of the case are totally different than that of the case in hand.
- 27. Learned defence counsel during argument has pointed out some discrepancies of the prosecution witnesses. According to learned defence counsel the prosecution witnesses tried to develop the case at the time of trial. I have considered the submission of learned defence counsel. On perusal the case record it appears that the alleged victim is a minor girl. On the day of the alleged incident she was just 12 years old. Her father, the complainant, is an uneducated person who does not know how to read or write. He puts his thumb impression in the ejahar. After perusal the oral testimonies of the non-official witnesses and discrepancies pointed out by learned counsel it appears that the discrepancies are minor which cannot shake the basic version of the prosecution witnesses.
- **28.**In view of the above discussion and observation it is concluded that the prosecution is able to establish the requirements under section 7 of POCSO Act and hence able to establish the charge against the accused under section 8 of POCSO Act.
- **29.**Though the charge under section 8 of POCSO Act has not been established; but the prosecution is able to establish the charge against the accused under said section. There is no bar in holding the accused is guilty under section 8 of POCSO Act instead of section 4 of POCSO Act vide provision of section 222 (2) Cr. P. C. So, it is held that the prosecution is able to establish the charge against the accused under section 8 of POCSO Act beyond all reasonable doubt and accordingly the accused is held guilty under said section and he is convicted accordingly.
- **30.** The accused/convict is neighbor of the complainant. He is an aged person. His indecent act towards a girl of 12 year is simply condemnable. So, I find no justifiable ground to extend the benefit of Probation of Offenders Act to the accused/convict.
- **31.**Heard accused/convict on quantum of sentence.
- **32.** Also heard learned counsels appearing for the parties.
- **33.**Accused/convict has stated that this was his first offence. He has prayed to excuse him as it was his first offence and he will not repeat such type of offence in future.
- **34.**Learned counsel for the prosecution has submitted that the accused/convict should be

- given adequate punishment so that it becomes an example for the wrongdoer.
- **35.**On the other hand learned counsel for the defence has submitted that the accused is an old person; so, has prayed to deal with him leniently considering his old age.
- **36.** Prescribed punishment under section 8 of the POCSO Act is imprisonment of either description for a term which shall not be less than three years but which may extend to five years, and shall also be liable to fine.
- **37.** The accused/convict is an old person and considering his age it is decided to impose minimum punishment prescribed by law.

ORDER

- **38.** The prosecution is able to establish the charge against the accused Mahizuddin Sheikh under section 8 of POCSO Act and accordingly he is convicted under said section and sentenced him to go rigorous imprisonment for 3 (three) years and also pay fine of Rs. 5,000/ (rupees five thousand) in default simple imprisonment for 2 (two) months.
- **39.** Fine amount, if realized, shall be given to the victim as compensation.
- **40.** The period underwent during investigation and trial shall be set off as per law.
- **41.** Furnish a free copy of the judgment and order to the accused/convict as per provision of law.
- **42.**Furnish another copy of judgment and order to the District Magistrate, Dhubri for information and necessary action, if any, from his side.
- 43. Bail bond of the accused stands cancelled. .

Victim compensation.

44.The victim girl who was just 12 year old at the time of incident faced such a situation which cannot be explained and I am of the view that the victim girl is entitled to get compensation under section 357-A Cr. P. C. So, District Legal Services Authority, Dhubri is asked to determine appropriate amount of compensation to the victim girl as per victim compensation scheme and pay the same as early as possible.

- **45.**The bench assistant is directed to provide the name of the victim girl, her parents' name and address to the Secretary DLSA, Dhubri in a sealed envelope so that DLSA, Dhubri can communicate with the victim or her legal guardian.
- **46.**Send a copy of this order to the Secretary DLSA, Dhubri for information and necessary action.
- **47.**Given under my hand and seal of this Court this the, 3rd day of April 2018

(D. Thakuria) Special Judge, Dhubri.

IN THE COURT OF SPECIAL JUDGE: DHUBRI.

SPECIAL CASE NO: 18/2017

UNDER SECTIONS: 376 IPC READ WITH SECTIOM 4 OF THE POCSO ACT.

STATE OF ASSAM

VS.

MAHIZUDDIN SHEIKH

<u>APPENDIX</u>

A. Prosecution exhibits:

Ext. 1 : Ejahar.

Ext. 2 : Sketch map of place of occurrence.

Ext. 3 : Medical Report.

Ext. 4 : Charge sheet.

B. Defence Exhibits: Nil.

C. Court Exhibits :

Ext. I : Statement of the victim u.s. 164 Cr. P. C.

D. Prosecution Witnesses:

P. W. 1: Mother of the victim,

P. W.2: Aunt of the victim,

P. W.3: Uncle of the victim,

P. W.4: Amena Bibi,

P. W.5: Complainant,

P. W.6: Victim &

P. W.7: Prabin Ch. Nath.

E. Defence Witness: Nil.

F. Court Witness:

C. W. 1 Boloram Kshetry

(D. Thakuria)

Special Judge, Dhubri.