

Special (POCSO) Case No. 04/2019.

U/S - 448/354(A) of IPC read with Sec. 8 of POCSO Act,2012.

State of Assam

- Versus -

Jahed Ahmed

...... Accused.

PRESENT :- Shri D. Bhattacharjee, Special Judge, Hailakandi.

Appearance and particulars :-

For the State

:- Sri U.K. Das, Ld. Public Prosecutor.

For the accused person

:- Sri S.A. Mazumder, Ld. Advocate.

Date of recording evidence

:- 27.09.2019.

Date of recording statement u/s 313, CrPC :- 22.10.2019.

Date of Argument

:- 22.10.2019.

Date of Judgment

:- 22.10.2019.

JUDGMENT

The prosecution case, in brief, is that on 09.11.2018 the complainant Sayarun Begum Laskar lodged a complaint with the Ld. CJM., Hailakandi alleging that the accused person Jahed Ahmed is her neighbor and on 07.11.2018 at about 11 AM taking the advantage of absence of the family members in the house, the accused entered into her house and hugged the minor daughter of the complainant and did bad acts with her and in the meantime, when the victim raised hue and cry, the accused person left the place.

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- On receipt of the complaint sent from the court, the same was registered as Lala PS Case No. 555/2016 under Sec 448/354(A), IPC read with Sec. 8 of the POCSO Act, 2012 were registered and during investigation, police visited the place of occurrence, drew up rough sketch map thereof, recorded statements of witnesses, got the victim medically examined and also got her statement recorded under Sec. 164, CPC and after completion of investigation submitted charge sheet against the accused person Jahed Ahmed under Sec. 448/354(A), IPC read with Sec. 8 of the POCSO Act
- 3. On appearance of accused person Jahed Ahmed, copies of relevant materials in terms of Sec. 207 of the CrPC were furnished to him.
- After hearing the Ld. Public Prosecutor and the Ld. Defence Counsel and after perusal of materials available on record, having found sufficient grounds for presuming that the accused person has committed the offence, the formal charges have been framed against the accused person Jahed Ahmed under Sec.448/354(A) of the IPC read with Sec. 8 of the POCSO Act. The charges so framed were read over and explained to the accused person, to which he pleaded not guilty and claimed to be tried. Hence, the trial.
- In the instant case, the prosecution has examined the victim and her mother, the complainant only. Thereafter, on submission of Ld. Public Prosecutor and the Ld. Defence Counsel, the prosecution evidence was closed. The accused person is examined under Sec. 313, CrPC, wherein he has denied the allegations levelled against him by the prosecution. The defence did not adduce any evidence.



6.

Heard argument of both sides. Perused the record.

7. POINTS FOR DETERMINATION :-

(i) Whether the accused person on 07.11.2018 at village Lakhinagar Pt. II under Lala Ps committed house trespass by entering into the house of the complainant with intent to commit certain offence and thereby, the accused committed an offence punishable under Sec. 448, IPC?

(ii) Whether the accused person used criminal force to the victim, the minor daughter of the complainant, with intent to disrobe her and thereby, the accused has committed the offence punishable under Sec. 354(A), IPC?

(iii) Whether the accused person sexually assaulted the victim, the minor daughter of the complainant, and thereby, the accused has committed the offence punishable under Sec. 8 of the POCSO Act,2012?

DISCUSSION, DECISION AND REASONS THEREOF:

- Year back, one day while she returned home from their pond after washing utensils, she found the accused standing on the door steps of their house and seeing him there, she asked the accused to give her way but the accused scolded her and started quarreling with her and during the course, there was hot altercation between them and out of anger, she told the same to her mother, who filed the case. During investigation, police got her medically examined and her statement was also recorded by Magistrate. It is further deposed by the victim that she has got no allegation against the accused as he did not commit any bad act with her.
- 9. The PW. 2, Sayarun Begum Laskar, the complainant, has deposed that about one year back, one day her daughter i.e. the victim reported her that the accused disturbed her while she was returning home from pond and on hearing the same, she lodged the case by putting her thumb impression.

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- In the instant case, though the complainant, who is the mother of the victim, has penned implication against the accused in the complaint but in the evidence the victim has deposed at the relevant time, the accused scolded her and as such, there was quarrel between them and out of anger, the victim told the matter to her mother (the complainant), who lodged the case. So also, the complainant herself in her evidence has corroborated the evidence of the victim stating that the accused disturbed the victim while she was returning home from the pond and on hearing the same, she lodged the case. As such, when the victim herself, whose evidence bears much significance to decide such type of cases, has not supported the prosecution case, I do not find any cogent reason to hold the accused person guilty for the commission of the offence, alleged.
- In fine, the accused person Jahed Ahmed is acquitted of the offence charged under Sec. 448/354(A) of the IPC read with Sec. 8 of the POCSO Act. Set him at liberty forthwith.

12. The bail bond of the accused stands discharged.

The judgment is delivered today, on this the 22nd day of

October, 2019.

Special Judge, Hailakandi.

SPECIAL JUDGE HAILAKANDI

Dictation is taken and transcribed by Baharul Islam Choudhury, Stenographer Grade I.

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Appendix :-

Oral evidences :-

PW. 1, the victim,

PW. 2, the complainant.

Documentary evidence :-

Nil.

Defence did not adduce any evidence.

Special Judge, Hailakandi

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