IN THE COURT OF THE SPECIAL JUDGE, DHEMAJI.

Present:

Shri S. Das, A.J.S.,

Special Judge,

Dhemaji,

JUDGMENT IN SPECIAL (POCSO) CASE NO. 27(DH)/2017

(G.R. Case No.830/2017, Gogamukh P.S. Case No.154/2017 Under Section 376/511 of the Indian Penal Code)

The State of Assam

- Versus -

Shri Raju DoleyAccused Person

S/O Shri Mala Doley,

R/O VIII- Adut Ligiteamukh,

P.S. Gogamukh,

Dist.- Dhemaji.

Committing Magistrate Judicial Magistrate 1st Class,

Dhemaji.

Appearance:

Shri A. Fugla,

Public Prosecutor

.....For the State

Smti. Baby Doley, Advocate,

.....For the Accused

Dates of prosecution evidence: 04.09.2017

Date of arguments

: 13.03.2018

Date of Judgment

: 23.03.2018

13-2018

JUDGMENT

- 1. The prosecution case in brief is that on 31.08.2017 complainant Shanti Mili lodged a written complaint with Gogamukh P.S. alleging inter-alia that on 21.08.2017 at about 11.30 P.M. accused Raju Doley entered into his house and attempted to commit rape on his daughter by removing clothes of Miss Bhairabi (real name conceal) aged about 15 years. His daughter raised alarm and he was caught red handed. It is alleged that earlier also the accused attempted to commit rape on her by entered into his house. It is stated that the complainant wanted to settle the issue through discussion in presence of villager elders but the accused was absconding.
- 2. On receipt of the ejahar police registered a case vide Gogamukh P.S. Case No.154/2017 u/s 376/511 of I.P.C. Police started investigation and on completion of investigation submitted Charge-sheet against the accused Raju Doley u/s 376/511 of I.P.C. Police also started investigation on completion of investigation submitted charge-sheet against the accused Raju Doley U/s. 10 of POCSO Act.
- 3. The case came up before the learned J.M.F.C., Dhemaji on appearance of the accused ld. J.M.F.C. furnished necessary copies to the accused and committed the case to this Court for trial.
- 4. This Court on appearance of the accused considered the materials on record and upon hearing both the sides, framed charge u/s 376/511 of IPC read with Section 8 of POCSO Act and read over and explained to the accused to which he pleaded not guilty. The prosecution, in order to prove its case, examined 2 witnesses the victim and the complainant. Thereafter the evidence was closed as the prosecution submitted that the witnesses had not implicated the accused as to commission of the offence..

Special Judge,

5. **Points for determination**:

- (i) That you, on 25.08.2017 at about 11.30 P.M. at night at Village-Adut Ligiragaon under Gogamukh Police Station attempted to commit rape on Smt. Bhairabi Mili (real name conceal) inside their house and thereby you committed an offence punishable u/s 376/511 of IPC.
- (ii) That you, on the same day, time and place committed sexual assault on Smt. Bhairabi Mili inside their house and thereby committed an offence punishable U/s. 8 of the Protection of Children from Sexual Offences Act, 2012.
- 6. I have gone through the evidence on record and heard arguments of both sides.

Discussion, Decision and Reasons thereof:

- 7. Complainant as examined as PW1. In his evidence stated that victim is his daughter. The occurrence took place in 2017 at night at about 9 P.M. He also stated that his daughter had quarrelled with the accused and the accused came to her house and rebut her daughter. Then he filed a complaint against the accused. Ext.1 is complaint and Ext.1(1) is signature.
- 8. The victim was examined as PW2. In her evidence stated that there was quarrel between her and the accused and on the day of occurrence the accused came to her house started shouting. Her father lodged a complaint.

In cross-examination she stated that after filing of the case they have amicably settled the matter with intervention of village elders. Now, they are maintaining good relations.

Special Judge,
Dhemail.

- I have considered evidence on record it appears that PWs in their evidence have not specifically stated as to what happened in between the accused and his daughter. PWs have also not stated anything regarding involvement of the accused in the commission of the alleged offence. PWs have also not supported the contents of the F.I.R. in this case.
- 10 From the above, it is quite clear that the accused and the PWs maintaining good relation and in the absence of any implications as to the involvement of the accused in the alleged offence. I find that the prosecution case cannot succeed and it fails.
- In view of the above, I find that the prosecution has failed to prove the charge u/s 376/511 of IPC and Section 8 of POCSO Act. against the accused. I find the accused not guilty accordingly. He is acquitted. Set him at liberty forthwith.

ORDER:

- 12. In view of the above, I find that the prosecution has failed to prove the charge U/s. 376/511 of IPC and Section 8 of POCSO Act. against the accused. I find the accused not guilty. Accordingly, he is acquitted. Set him at liberty forthwith.
- 13. Judgment is pronounced in open court.
- day of March, 2018.

S. Das)

Special Judge, Special Judge, Cheblitemaji.