

## **DISTRICT- CHARAIDEO.**

IN THE COURT OF THE SPECIAL JUDGE: CHARAIDEO: SONARI

Present:- Syed Imdadur Rahman, AJS.

**SPECIAL JUDGE** 

The 21st day of May, 2019.

SPECIAL (P) CASE NO: 13 OF 2018

Under Section

8 of the Protection of Children
from Sexual offences Act, 2012.

Read With

457 of the Indian Penal Code.

State of Assam

-Versus-

Sri Debanta Saikia.

..... Accused Person

F.I.R was lodged on :::::::::: 27.02.2017.

Charge framed on ::::::::: 20.04.2018.

Argument Heard on ::::::::: 15.05.2019.

Judgment Delivered on ::::::::: 21.05.2019.

Special Judge Sharaideo, Sonar,



### **JUDGMENT**

In this case the accused person is facing trial under section 8 of the P.O.C.S.O act 2012, and alternatively Under Section 457 I.P.C.

- 1. The case of the prosecution is that, on 25/02/2017 at 10:30 A.M the accused after entering the house of the informant, raped his minor daughter.
- 2. Later on, after lodging of the 'ejahar' of this case by the informant, a case was registered in this regard, before the Khapekhati Police station, bearing its P.S case no 12/17. Police after investigation forwarded chare-sheet U/S 4 of the P.O.C.S.O act against the accused person. Thereafter, case was committed and charge U/S 8 POCSO act 2012 read with section 457 I.P.C was framed by my ld. Predecessor. The charge was read over and explained to the accused person, to which he, pleaded not guilty and claimed to be tried. Prosecution examined 2 witnesses.
- 3. The accused person was examined U/S 313 Cr.p.c, where he denied the case of the prosecution. The accused person examined no witness. I have heard arguments put forwarded by both sides.

# 4. **Points For Determination in this case are:**

- i) Whether the accused on 25/02/2017, at 10:30 A.M committed sexual assault on the daughter of the informant Sri Pabitra Patmout, who was 13 years old at that time?
- ii) Whether the accused on 25/02/17, committed lurking house trespass by night upon the house of the informant with the intention to commit sexual assault on the daughter of the informant?

Special Judge Charaideo, Sonari



# 5. <u>DISCUSSION DECISION AND REASONS FOR THE DECISION</u>

Let us now, discuss evidences on record, concerning the points for determination of this case. In this case the informant was examined as P.W1; the P.W1 in his evidence deposed that, two years ago the incident took place. That, on the day of the incident he after reaching his home saw that, accused and his daughter were enjoying television proggramme. That, on the next day he lodged the ejahar out of anger. That, no incident took place as mentioned in the 'ejahar'. In the cross examination this P.W deposed that, no wrong has been done with his daughter.

- 6. In this case the other most material witness is the P.W2 i.e. being the alleged victim of this case. She in her evidence deposed that, the incident occurred two years ago. That, she along with the accused her sisters and brothers were enjoying television proggramme, for which her father lodged case. In the cross examination this P.W deposed that, accused has no guilt as he did no wrong.
- 7. I have scrutinized evidences of the witnesses of this case and found the followings :::
- a) The victim never adduced any evidence which may attract any of the points for determination, neither the informant.
- b) The informant failed to support the F.I.R he lodged. The informant never adduced any evidence which specifically corroborated either the evidence of the alleged victim or the case of the prosecution.
- 8. Here in this case, the accused is facing trial under section 8 of the P.O.C.S.O act and U/S 457 I.P.C, but the discussions made above shows that there is no evidence on record basing on which, prosecution can bring home the charge against the accused. Here the victim herself failed to support the case of the prosecution. Here the alleged victim even failed to support the statement she made under section 164 Cr.P.C.

the accused. Here
Special Judge
Charaideo, Sonan Section 164 Cr.P.C.



- 9. I have considered the evidences on record, which includes the evidence of the prosecutrix and I find that, there is no iota of evidence to bring the accused person within the ambit of either section 457 of I.P.C or section 8 of the POCSO act, 2012 as the alleged victim and other witness never deposed anything in evidence against the accused, concerning any of the points for determination. Here in this case the prosecution has failed to adduce any evidence basing on which we can held that, prosecution has proved the case beyond all reasonable doubt.
- 10. This being the position of this case, in opinion of this court, prosecution has failed to prove the case against the accused person and accordingly the accused Sri Debanta Saikia is acquitted from the offences he is facing trial. He is set at liberty forth with. Bail bond executed by the accused is extended as per provision 437(A) Cr.P.C. In opinion of this court there is no circumstance to invoke section 357(A) of Cr.P.C.

Given under my hand and seal of this court on this the 21<sup>st</sup> day of May 2019.

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## **Appendix**

#### **Prosecution Witnesses**

Sl. 1---- Prosecution Witness 1 ---Sri Pabitra Patmaut. SI. 2---- Prosecution Witness 2 --- The alleged victim.

# **Prosecution Exhibits**

Sl. 1---- Ejahar Sl. 1(1)- Signature of the informant.

#### Defence witness

Nil.

Defence Exhibit

Nil

(Sd.Rahman) oge Additional Sessions Judge Charaideo, Sonari.