# IN THE COURT OF ADDL SPECIAL JUDGE (FTC)::KOKRAJHAR

Present :- Sri C. Chaturvedy, Addl. Special Judge (FTC),

Kokrajhar.

SPECIAL CASE 52/2018
U/S. 341/342 IPC read with Section
8 of the Protection of Children from
Sexual Offences Act, 2012

STATE OF ASSAM

Vs

Sri Solemon Sheikh S/O. Abdul Roshid Village- Khajurbari P.S. Fakiragram District- Kokrajhar

...... <u>Accused person</u>.

Appearance: -

Learned Counsel for the State Mr. Manjit Ghosh, Special P.P Learned Counsel for the defence Mr. Prasenjit Dutta, Advocate

Charge framed on 03.01.2019

Evidence recorded 01.02.2019

on

Argument heard on 24.06.2019

Judgment pronounced 24.06.2019

on

## **JUDGMENT**

1. The case of the prosecution is that on 16.6.2018 one Ms. Xxx, the mother of the victim, lodged a writen FIR at Fakiragram Police Station alleging that on 14.6.2016 while her daughter, the victim, aged about 14 years was returning home from School, the accused Soleman Sheikh accosted her and outraged her modesty by touching on her private parts. The informant further alleged that accused attempted to commit rape on her daughter.

- 2. On receipt of the FIR, a case U/S 341/342/376/511 IPC read with Section 8 of the POCSO Act was registered and investigated. After completion of the investigation, a charge sheet was laid against the accused Soleman Sheikh for commission of offence U/S 341/342 IPC read with Section 8 of the POCSO Act.
- 3. The case was transferred to this Court for disposal. The accused person was summoned and on his appearance, copies of the relevant documents were furnished to him.
- 4. Upon hearing both sides charges U/S 341/342 IPC read with Section 8 of the POCSO Act were framed against the accused to which he pleaded not guilty and claimed to trial.
- 5. In the course of trial prosecution examined 5 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 the offences under 341/342 IPC read with Section 8 of the POCSO Act?

#### **DECISION AND REASONS:**

6. Pw 1 xxx, is the victim. She deposed that the occurrence took place about 6 months back. At about 3 p.m, she was talking to accused Soleman Ali at road-side. At that time, her mother saw her talking to the accused. Many people gathered as her mother reacted.

Thereafter, she was taken to police station. Local villagers also took the accused to police station.

- 7. The learned Special P.P sought the leave of the Court to cross-examine the victim as she had resiled from her previous stand. After perusing the statement of the witness under Section 164 CrPC, the leave was granted.
- 8. In cross-examination by the learned Special P.P, the victim deposed that she had given a statement before the Magistrate wherein she stated that while she was returning from School, the accused called her filthy names. She also admitted that she stated before the Magistrate that accused grabbed her and tried to remove her cloths.
- 9. In cross-examination by the defence, the victim deposed that she gave the statement, under Section 164 CrPC, according to the instructions given by the Police. Infact she was only talking to the accused and that accused had not called her any names nor had he grabbed her. She also deposed that her mother took her to Police station at the instigation of villagers.
- 10. Pw 2, xxx, the mother of the victim deposed that she had lodged the FIR in this case and that about 5 months back she was informed by the villagers that her daughter is talking to accused. She came to the place of occurrence and at the instigation of local people lodged the FIR against the accused.
- 11. Pw 3 Abdul Khaleque deposed that about 6 months back he had heard that some dispute took place between accused and the

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victim. He also deposed that he does not know anything else about the

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occurrence.

12. Pw 4 Ayna Bibi and Pw 5 Jahura Bibi deposed that they do

not know anything about the occurrence.

13. So being the evidence on record, no materials for the

offences charged have been brought forth by the prosecution. The

evidence rather points towards mistake of fact. It would not be proper

to sustain a conviction on these evidence.

14. The point for determination is answered in negative.

**ORDER** 

Accused Soleman Sheikh is acquitted of the charges under

Section 341/342 IPC read with Section 8 of the POCSO Act and set at

liberty forthwith.

His bail bonds shall remain valid for six months.

Given under the hand and seal of this Court on this 24th day of

June,2019.

Dictated and corrected by me:

Addl. Special Judge (FTC) Kokrajhar Addl. Special Judge (FTC) Kokrajhar

### **APPENDIX**

## **Prosecution witnesses**: -

- 1. Pw 1 -victim
- 2. Pw 2- mother of the victim
- 3. Pw 3- Abdul Khaleque
- 4. Pw 4- Ayna Bibi
- 5. Pw 5- Jahura Bibi

## **Defence Evidence-**

1. Nil

### **Court evidence**

1. Nil

Addl. Special Judge (FTC), Kokrajhar