

**IN THE SPECIAL COURT :: SONITPUR, TEZPUR:: ASSAM**

**PRESENT:-** N. AKHTAR, AJS  
Addl. Sessions Judge,  
Sonitpur::Tezpur.

**Special (POCSO) Case No. 06 of 2020.**

U/s. 10 of

Protection of Children from Sexual Offences Act, 2012.

State of Assam

-Vs-

Kitab Ali

FOR THE PROSECUTION	:-	Mr. S.K.Moitra, Special PP.
FOR THE DEFENCE	:-	Ms. R. Begum, Advocate.
EVIDENCE RECORDED ON	:-	03.02.2021
ARGUMENTS HEARD ON	:-	03.02.2021.
JUDGMENT DELIVERED ON	:-	03.02.2021.

## **JUDGMENT**

---

1. The case of the prosecution in brief is that on 6.11.2014 while the daughter of the informant was going to her house from the house of one Philis Guria, the accused on the way obstructed her and forcefully dragged her to a nearby bush in order to sexually assault her but the prosecutrix raised alarm and the neighbouring people appeared at the scene of crime and apprehended the accused and handed him over to local Gaonburah. Hence, the FIR was lodged.

2. Based on the said FIR, Dhekiajuli PS Case No. 667/2014 U/s 376/511 IPC was registered and after completion of investigation, chargesheet was laid against the accused.
3. On appearance of the accused person, copies of relevant documents were furnished to him in compliance of the provision of Sec.207 CrPC. Having heard both the sides and considered the materials on record, formal charge was framed against the accused u/s 10 of the POCSO Act, 2012 and had been read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
4. During trial, the prosecution has examined the prosecutrix alone. Defence has not examined any witness. At the end of the trial, the argument advanced by the learned counsel for both the sides were heard.

#### **POINT FOR DETERMINATION**

- *Whether on the alleged day of the incident, while the prosecutrix (10 years of age) was on her way to her home, the accused obstructed her on the way and caught hold of her hand and dragged her into a nearby bush in order to commit rape but the prosecutrix raised alarm and the neighbouring people arrived there and thereby the accused aggravated sexual assault punishable U/s 10 of the POCSO Act, 2012?*

#### **DISCUSSIONS, DECISIONS AND REASON FOR DECISION**

5. I have heard the arguments advanced by learned counsel for both the sides and also gone through the evidence on record.
6. PW1 is the prosecutrix. She had deposed in her evidence that she knew the accused who is their co-villager. Her father lodged the FIR of this case. The alleged incident took place about 6 years back. During those days, she was staying in the house of her maternal uncle. On the day of

occurrence, she was coming to her house through the road and then, she suddenly saw the accused who sportingly played a prank on her by suddenly appearing in front of her in a scary fashion and she got scared and shouted aloud. Neighbouring people came to the PO hearing her shouts. This incident was misinformed to her father by some villagers who lodged this FIR out of misunderstanding. The accused did not do anything with her except playing the prank.

7. She had further stated that her father once went to Bongaigaon and got missing and he has not been heard of for about six years. In her cross-examination, the prosecutrix had stated that she has not concealed anything and had given a true account of the incident which took place. She had also stated that the accused merely played a scary prank with her and as she was very small at that time, she got scared and shouted.
8. It thus, appears from the aforesaid evidence of the prosecutrix that she has not at all supported the case of the prosecution. She had clearly stated that the accused only played a prank with her and did nothing else. It further appears from her evidence that her father had lodged the case out of misunderstanding. Thus, the evidence on record is absolutely deficient to bring home the charge against the accused. No criminal liability can be attributable to the accused in this case.
9. In the result and for the discussions made hereinabove, I am constrained to hold that the prosecution has failed to prove the case against the accused beyond all reasonable doubts. **The accused is not found guilty of any offence as charged and as such, he is acquitted of the charge and set at liberty forthwith.**
10. Forward a copy of this judgment to the District Magistrate in compliance of Sec.365 CrPC.

***Given under my hand and seal of this court on the 3<sup>rd</sup>  
day of February/2021.***

**Typed and Corrected by me:**

Addl. Sessions Judge,  
Sonitpur:: Tezpur.