

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

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

Special (POCSO) Case No. 24 of 2020.

U/s. 8 of

Protection of Children from Sexual Offences Act, 2012.

State of Assam

-Vs-

Md. Yusuf Ali

FOR THE PROSECUTION	:-	Mr. S.K.Moitra, Special PP.
FOR THE DEFENCE	:-	Mr. A.Mahanta , Advocate.
EVIDENCE RECORDED ON	:-	18.02.2021
ARGUMENTS HEARD ON	:-	18.02.2021.
JUDGMENT DELIVERED ON	:-	18.02.2021.

JUDGMENT

1. The case of the prosecution in brief is that since the month of last Ramadhan, the accused was sexually exploiting the alleged victim girl who is the daughter of the informant and on 25.6.2020, the accused again sexually exploited the prosecutrix whereupon, she informed her mother about the same and then, the mother lodged the FIR.
2. Based on the said FIR, Missamari PS Case No. 56/2020 U/s 8 of the POCSO Act 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 charges were framed against the accused u/s 8 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 and the informant. 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 or about the alleged day of the incident, the accused called the prosecutrix and sexually exploited her and thereby committed sexual assault punishable U/s 8 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 is a child of 11 years of age and so, no oath has been administered to her but after preliminary examination, the court was satisfied that she was capable of understanding the questions put to her and also capable of giving rational answers to those questions. Therefore, she was examined as PW1. She had deposed that the accused is her grandfather who resides with them in the same household but in a different room. She had further deposed that the accused used to call her to his room and used to ask her about her lessons in the school and she accordingly went to his room to learn the lessons. But her parents had some misunderstanding because the accused very frequently called her to his room and as such, they had filed this case against the accused. She had also deposed that her

grandfather had never done any indecent act with her. She had also stated that during investigation, when she was brought to the court, the police accompanying her had tutored her as to how to give statement before the Magistrate and accordingly she gave her statement which is Ext-1. She had further deposed in her cross-examination that she felt no grievance against her grandfather and she did not want her grandfather to suffer in any way.

7. PW2 (Mrs. Joygun Nessa) is the mother of the alleged victim girl and is the informant of this case. Her evidence goes to show that she reside in the same household with the accused, her husband, her twin daughter and her son. The accused along with her mother-in-law stays in a different room. She noticed that her father-in-law i.e the accused used to call her daughter to his room and she spent quite a long time there. PW2 then suspected some foul play on the part of her father-in-law and out of gross misunderstanding, she had filed this case against the accused. She had admitted that the statements of allegations made in the FIR are based on assumptions only and she was also instigated by some of the villagers to file this case against the accused. She had also categorically stated that her daughter had never complained of anything about the accused nor of his activities. She had further stated that as a mother, she feels that the accused being the grandfather of the alleged victim girl has every right to call the granddaughter to his room and talk about anything with her. PW2 had further stated that it was not proper on her part to make wild guesses and to lodge a police case against the accused.
8. It thus, appear from the evidence on record that the accused being the grandfather of the alleged victim girl used to call her to his room and ask her about the lessons in the school. The alleged victim girl herself clearly stated that the accused never did any indecent act with her. PW2 being the informant had also stated that she was instigated by the villagers to lodge a police complaint against her father-in-law and so,

she did. PW2 had admitted that her daughter had never made any complaint about any misdeed of the accused and it was further admitted by PW2 that she made some wild guesses against the accused and resultantly lodged the FIR which is not proper. Thus, apparently there is not even an iota of incriminating evidence on record to impute any criminal liability on the accused.

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 charges 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 18th day of February/2021.

Typed and Corrected by me:

Addl. Sessions Judge,
Sonitpur:: Tezpur.