

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

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

Special (POCSO) Case No. 31 of 2020.

U/s. 8/12 of

Protection of Children from Sexual Offences Act, 2012.

State of Assam

-Vs-

Mohammad Nisar

FOR THE PROSECUTION	:-	Mr. S.K.Moitra, Special PP.
FOR THE DEFENCE	:-	Mr. B. Nath, Advocate.
EVIDENCE RECORDED ON	:-	05.02.2021
ARGUMENTS HEARD ON	:-	05.02.2021.
JUDGMENT DELIVERED ON	:-	05.02.2021.

JUDGMENT

1. The case of the prosecution in brief is that on 9.11.2020 the accused who was staying in the Assam Rifle Camp at Sirajuli Tea Estate, called the daughter of the informant into the camp and gave her obscene gestures and also showed her his private part. The accused also tried to touch her indecently but she somehow managed to run away from the camp and informed the matter to her parents. Hence, the FIR was lodged.

2. Based on the said FIR, Dhekiajuli PS Case No. 701/2020 U/s 293/376/511 IPC read with Sec. 10 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 8/12 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 the alleged day of the incident, while the prosecutrix was going to a shop, the accused established a physical contact with her by calling her to the camp and tried to take off her panty and thereby committed sexual assault punishable U/s 8 of the POCSO Act, 2012?*
- *Whether the accused also showed to the prosecutrix his private part committing thereby an offence of sexual harassment punishable U/s 12 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. The informant is her father who had lodged the FIR at the

instance of some villagers. She had further deposed that on the alleged day of occurrence, she came back home from school and went out to a nearby shop to bring some eatables. Then, she suddenly entered into a nearby Army Camp which could be seen by some villagers who rushed to her father and told that they had seen me going into the Army camp and my father should file an FIR as something unpleasant might happen. Accordingly, her father had lodged the FIR. She had however, purchased the eatables and returned home soon. She had also stated that nothing unpleasant had happened to her in the Army Camp and the accused had also done nothing unpleasant with her.

7. The prosecutrix had further deposed that she was tutored by some villagers to give statement before the police and magistrate and accordingly she gave statement but no any unpleasant incident had happened with her on the relevant day. Ext-1 is the statement given by her in the court.
8. PW2 (Sundara Munda) is the father of the alleged victim girl and the informant of this case. His evidence also goes to show that the alleged victim girl is his daughter and on the day of the alleged incident, his daughter was sent to a nearby shop to buy some eatables. Then, some villagers rushed to him and told him that they had seen his daughter going into the Army Camp and something unpleasant might happen to her and also prevailed upon him to file an FIR for which he lodged the FIR which is Ext-2. He had also stated that the villagers also pressurized him to put his signature on Ext-2 and he did so without knowing the contents of Ext-2. He had also stated that the villagers whose names cannot be recollected by him at the moment also tutored his daughter to give statement before the police and Magistrate in a particular way. It further appears from his evidence that his daughter did not tell him anything about happening of any unpleasant incident with her.

9. It thus, appears from the aforesaid evidence of the prosecutrix as well as PW2 that the prosecutrix had gone to the Army camp on the relevant day but nothing unpleasant had happened with her and she was tutored by some villagers to give statement before the police and the magistrate and she accordingly did. PW2 had also deposed that he lodged the FIR at the instigation of some villagers but nothing unpleasant had happened with his daughter on the alleged day of the incident. Thus, there is apparently not even an iota of incriminating evidence on record to bring home the charges against the accused. The prosecutrix herself, has not supported the case of the prosecution.
10. 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.**
11. 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 5th day of February/2021.

Typed and Corrected by me:

Addl. Sessions Judge,
Sonitpur:: Tezpur.