

**Present:- Sri N. J. Haque, CJM, Sonitpur, Tezpur**

Tezpur PS Case No-408 of 2021

GR Case No-654 of 2021

Under Section-363/34 of IPC

ORDER

24.08.2021

Case record put up today before me along with a prayer of the I/O Inspector Mintu Boro, Officer-in-Charge of Tezpur Police Station, wherein he prayed to add Section-376 of IPC R/W Sec-6 of POCSO Act.

Heard and perused the case diary in the backdrop of the prayer filed by the investigating officer.

On perusal of the case record, it unveiled before this court that criminal law sets in motion closely on lodging an ejahar by the informant named Md. Shahjahan Ali alleging inter-alia that on 21.02.2021, the FIR named accused persons, namely, Khairul Islam, Baharul Ali, Rahul Ali and Ayesha Khatoon had kidnapped his minor daughter Miss "X" (name withheld) aged about 15 years from his house in his absence. Thereafter, one named Yunush had Ali informed him about the incident.

Subsequently, Tezpur PS Case No-408 of 2021 was registered u/s-363/34 of IPC against the accused persons.

The I/O in his prayer of adding Section-376 of IPC R/W Section-6 of POCSO Act stating that as per the statement of victim recorded u/s-164 of CrPC, while the victim was staying with the accused at that relevant time the accused frequently committed rape upon her. The I/O during his investigation recorded the statement of the witnesses, collected the birth certificate of the victim girl. It is seen that in the statement of the victim recorded u/s-164 of CrPC, she has clearly reported her age to be 17 years.

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In the background of prayer filed by the I/O, the court has squarely scrutinized the entire case diary. Considering the statement of the victim as well as the associating constituents originated from the statements of the witnesses, at this stage without in flowing into the merits of dispute in hand, this court finds sufficient reason to allow the prayer of the investigating officer. The incriminating part of the statement of the victim also signifies that an offence of Section-376 of IPC R/W Section-6 of POCSO Act may have been committed by the alleged accused.

As such, for the sake of proper investigating and also for the ends of justice, this court finds that there is every chance of defeating justice if the prayer of the I/O is not allowed at this stage.

Therefore, the prayer of the I/O for adding section-376 of IPC R/W Section-6 of POCSO Act is allowed and consequently the O/C of Tezpur PS sets at liberty to add section-376 of IPC R/W Section-6 of POCSO Act.

Consequently, after adding of section-376 of IPC R/W Section-6 of POCSO Act, the CR directed to be put up before the Hon'ble Special Judge, Sonitpur at Tezpur.

Inform all concerned.

Sri N. J. Haque  
Chief Judicial Magistrate  
Sonitpur, Tezpur