

**IN THE COURT OF THE SPECIAL JUDGE SONITPUR:: TEZPUR**

**SPECIAL POCSO CASE NO. 19 of 2017**

Under section 377 of IPC/Section 10 of POCSO Act.

(Arising out of G. R Case No. 1672/17)

**State of Assam**

**-Vs-**

Sri Joygeswar Dihingia

...

Accused Person

**Present : Smti I. Barman, AJS,  
Special Judge,  
Sonitpur, Tezpur.**

For the State : Mr. M.C. Baruah,  
Special Public Prosecutor

For the accused : Mr. S.E. Alam, Sr. Advocate

Date of Argument : 30-04-2019.

Date of Judgment : 14-05-2019.

**JUDGMENT**

**1.** The genesis of the present case is anal sexual assault on a eight years male child (herein after called as "the victim"). It is alleged that on 10-05-2017 at around 2 p.m., while the informant's minor son/victim aged about 8 years was playing with his friend (PW 5) Ram (actual name withheld) at a few distance away from his house, accused Joygeswar Dihingia by luring took him to his house and sexually assaulted him.

**2.** On receipt of the FIR (**Ext.1**) on 11-05-2017 from the informant that is the victim's father (PW 1), the In-charge of the Kacharigaon Police Out Post made the G.D. Entry No. 200 dated 11-05-2017 at

around 11 a.m. and forwarded the FIR to the Officer-in-Charge of Tezpur Police Station for registering a case. On receipt of the same, the Officer-in-charge of Tezpur PS registered the case being Tezpur P.S. Case No. 882/2017 u/s 8 of Special POCSO Act and entrusted SI Tabibur Rahman to investigate the case who had already launched the investigation of the case. In course of investigation, the Investigating Officer (PW 9) visited the place of occurrence, recorded the statement of the witnesses, arrested the accused, sent the victim for medical examination, got his statement recorded u/s 164 Cr.P.C. and on completion of investigation having found materials, laid chargesheet against the accused Joygeswar Dihingia under section 8 of POCSO Act.

3. On appearance of the accused person before this Court, after furnishing the copies of the documents u/s 207 of Cr.P.C. and having heard both parties, my learned predecessor, framed charge against the accused Joygeswar Dihingia u/s 377 of the IPC read with section 10 of POCSO Act and particulars of the charge on being read over and explained to the accused person, he pleaded not guilty and claimed for trial.

4. To substantiate the case, prosecution examined as many as 9 (nine) numbers of witnesses. On closure of the prosecution evidence, statement of the accused was recorded u/s 313 Cr.P.C. wherein the accused denied all the incriminating evidence that emerged against him.

5. I have heard the argument of the learned counsel of both sides and also have gone through the materials on record.

6. The point for decision in this case is that -

***(1) " Whether the accused Joygeswar Dihingia on 10-05-2017 at around 2 p.m. at Ushanagar under Tezpur Police Station committed carnal intercourse against the order of nature with the victim, a minor boy aged about 8 years and thereby committed an offence punishable under section 377 of IPC.***

*(2) Whether the accused Joygeswar Dihingia on 10-05-2017 at around 2 p.m. committed aggravated sexual assault on the victim male child aged about 8 years and thereby committed an offence punishable under section 10 of POCSO Act?*

**Reasons, Decisions and reason for decision.**

7. Mr. M. Baruah, the learned Special Public Prosecutor strenuously argued that the materials on record undoubtedly project a case of sexual assault on a boy of 8 years old. He further submitted that the evidence of the child victim of sexual assault and his cousin brother (PW 5) who was present in the place of occurrence is enough to convict the accused person.

8. Controverting the said argument, Mr. Alam, the learned Senior counsel appearing for the accused, submitted that that no explicit reliance can be placed upon the evidence of the minor victim who is a tutored one. Moreover with the discrepancies in the evidence of the prosecution witnesses during investigation and during trial, made the prosecution case doubtful and as such the accused is entitled to benefit of doubt.

9. In this case, the victim and his parents categorically stated that the victim was 7/8 years old at the time of incident and the medical report also reflects that the victim was below seven years. Age of the victim is not disputed in this case. As such, I unhesitatingly hold that the victim is a child below the age of 12 years at the time of the incident.

10. Now, the question is whether the accused Joygeswar Dihingia committed any offence on the victim child. In this respect, it would be apposite to evaluate the evidence of the prosecution witnesses.

11. PW 8 is the victim. He deposed that on the day of incident at around 2 p.m., when he along with cousin brother/friend Ram ( PW 5) and one Riya were playing on the road in front of his house, the accused came there and by luring to give money, called them to his house. Accordingly, he along with PW 5 went to his house. The

accused took him on his lap and touched his penis. Then the accused took him and his cousin brother PW 5 to the roof of the house of the accused. The accused offered them mango and thereafter they again came down. The boys when felt the need to attend nature's call, accused asked PW 5 to go to the side of the tube well and asked him (victim) to go to the bath room. In the bath room, the accused opened his pant and thereafter the accused opening his own pant, inserted his penis into the anus of the victim. At that time when his brother PW 5 called him up, the accused gagging his mouth closed the door of the bath room. PW 5 again called him up. Then giving one blow in the abdomen of the accused, he ran away there from. He met his grand-mother at the gate and reported the incident to his grand- mother and to his mother. He proved his statement u/s 164 Cr.P.C. as Ext. 3.

During cross he admitted that the doctor did not find any injury on his anus. He stated that when he was brought to the court, police instructed him what is to be stated before the Magistrate and accordingly he made the statement. Again he denied the suggestion that as per instruction of his parents and police, he made the said statement. He further stated that when he went to the house of the accused whom he called as "Koka", the wife of the accused whom he called as "Aita" was also present there.

**12.** Close on the heels of the evidence of the victim child, PW 5 aged about 8 years, the cousin brother of the victim with whom the victim was playing on the fateful day also stated that on the day of incident, at around 2/3 p.m. when he along with the victim were playing, the accused coming there gave them Rs. 3/- to buy "morton" but as at that time, the shop was closed, hence they returned to his paternal aunt's house but again the accused called them and opening his gate asked them to sit in the verandah. The accused also offered mango by taking them at the roof of the building. Then when they felt the need of urinate, he discharged near the tube well and the accused took the victim to the bath room. He had seen the accused opening the chain of

his (accused) pant and then closing the door. He called the victim to which the victim replied that he is coming. At that time he met the grand mother of the victim who came forward in search of them. In the mean time the victim came out and said that the accused did have carnal sex with him.

During cross, he stated that when he along with the victim were playing, the accused gave money to the victim. He admitted that before police he stated that after the victim went inside the bath room, he did not know what happened.

**13.** The other witnesses are only reported about the occurrence. PW 1, the informant as well as the father of the victim, deposed that on the day of incident, in the evening when he returned from work, his brother (PW 2) informed him that the accused luring to give money and mango, called his (PW1) 7 years old son and PW 5 to his house. Thereafter, the accused asked his son/victim to touch his penis and then opening his (accused) pant attempted to commit carnal intercourse with his son. The victim informed the matter to his (victim) mother and knowing about the incident his mother-in-law rebuked the accused. Then he lodged the FIR, Ext.1.

During cross, he admitted that he heard about the incident from his brother. He denied the suggestion that before police he did not state that the accused luring to give money and mango took his son along with PW 5 to his house and asked his son to touch his penis and that the accused opening his pant, attempted to commit carnal intercourse with his son. He admitted that he did not inform about the incident to his neighbours. He denied the suggestion that due to previous incident of breaking the wall of the accused, an altercation took place between him and the accused for which he concocted the story and lodged the FIR falsely.

**14.** PW 2 is the brother of the PW 1. He testified that on the day of incident when his nephew/victim was playing with a friend in front of

their house, the accused called the victim to his house luring to give money and thereafter, attempted to commit bad act. He was reported about the incident by the mother of the victim while he returned from his work. Knowing about the incident, he went to the house of the accused and asked why he committed bad act but the accused remained silent. Then he advised to lodge the FIR.

During cross, he stated that he heard about the incident from others. He admitted that prior to the incident, a truck carrying articles to the house of the informant damaged the wall of the accused.

**15.** PW 3 Sri Bikash Nath, deposed that on the day of incident, hearing hulla in the house of PW 1, he rushed there and had found the police there. From neighbours he heard that the accused committed bad act on the victim child.

**16.** PW 4 is the mother of the victim boy. According to her, on the day of incident, when she was at home, at around 2/3 p.m., her victim son aged about 8 years along with PW 5 were playing in front of her house. At that time the accused called her son and PW 5 to his house and gave one rupee note each to the boys. Then they went to shop but as the shop was closed, they returned to the house of the accused. When they felt the urge to urinate, PW 5 was allowed to go outside and the accused taking her son inside the bathroom, touched his private part through his private part. PW 5 called her son but he did not respond. Thereafter, her son came out and informed her by crying that the accused taking him inside the bath room did have carnal sex with him. Accordingly, she informed the matter to her husband.

During cross, she stated that she had not seen the incident. She only heard it. She admitted that before police she did not state the incident as narrated in the court.

**17.** PW 6 Dr. Pradip Kumar Barman, Radiologist, Assam X-ray clinic and Laboratory, Tezpur deposed that on 11-05-2017 as referred by doctor of KCH, Tezpur, he examined the victim and opined that the

age of the victim boy appears to be below seven years. He has proved the Radiologist report as Ext.2 where Ext. 2(1) is his signature.

During cross, he stated that he had not mentioned in the report the name of the doctor who referred the patient and also did not note in the certificate that it is co-related with clinical data and not for medico legal purpose.

**18.** PW 7, Miss B. Khakhlyar, the then Judicial Magistrate, 1<sup>st</sup> class, Sonitpur, Tezpur, deposed that on 12-05-2017 she recorded the statement of the victim, aged about 8 years, in presence of the father of the victim. She proved the statement of the victim as Ext. 3 and the order of the learned Chief Judicial Magistrate, Sonitpur, Tezpur as Ext. 4.

During cross, she stated that she has not given any certificate that the statement of the victim was made voluntarily.

**19.** PW 9 Tabibur Rahman, the Investigating Officer, deposed that on 11-05-2017 on receipt of an FIR from the informant he made the GDE No. 200/17 dated 11-05-2017 at 11 a.m. and sent the FIR to O/C Tezpur Police station for registering a case. Accordingly, consequent to the registration of the case by O/C, he was entrusted to investigate the case. During investigation he visited the place of occurrence, prepared the sketch map of the place of occurrence vide Ext. 5, recorded the statement of witnesses, sent the victim for medical examination, got recorded his statement u/164 Cr.P.C., arrested the accused and on completion of investigation, submitted chargesheet against the accused u/s 8 of POCSO Act vide Ext. 6.

**20.** Bearing in mind, the age of the victim who is aged about 8/9 years, let me now turn to the question of alleged offence of aggravated sexual assault on the child victim. While considering this part of the matter, it is worth noticing that it is the victim PW 8 around whose evidence revolves the entire case of the prosecution, as such, his evidence is most credential. His evidence is that on the day of

incident, at around 2 p.m. when he along with PW 5 and one Riya were playing on the road in front of their house, accused came there and luring to give money, called them to his house. Accordingly, when he along with PW 5 went to the house of the accused, he took him on his lap and touched his penis. Thereafter, the accused had taken him and PW 5 to the roof of his house where the accused offered them mango. Thereafter they came down from the roof and on feeling the need to attend nature's call, the accused asked PW 5 to discharge near the well and asked him to go to the bath room but in the bath room the accused opened his own pant as well as that of the victim and inserted his penis into the victim's anus. At that time when PW 5 called the victim, the accused gagged his mouth and closed the door. He further stated that again his brother called him and then he giving one blow in the stomach of the accused ran away there-from and met his grand mother at the gate. Then he reported the incident to his grand mother as well as to his mother. The victim made the same version in his statement u/s 164 Cr.P.C. which is proved as Ext. 3. His friend as well as the cousin brother (PW 5) aged about 8 years, categorically deposed that on the day of incident, at around 2/3 p.m. when he along with the victim were playing, at that time the accused coming there, offered three rupees to buy 'mortan'. But as the shop was closed, they came to their paternal aunt's house. He further stated that thereafter, the accused again called them, opened the gate and asked them to sit in the verandah. Thereafter, the accused took them to the roof of the building and offered mango. Then in need to urinate, he proceeded towards the tube well but the accused took the victim to the bath room. Then, the accused opened the chain of his pant and closed the door of the bath room which he witnessed. He further stated that he called the victim to which the victim replied that he is coming. At that time their grand mother in search of them was coming forward whom he met at the gate. In the mean time, the victim also came out and said that the accused inserted his penis in his anus. The evidence of PW 8, the victim and PW 5, reveals that on the day of incident, the

accused by luring took the victim and PW 5 to his house, offered them mango and when the boys felt the urge to urinate, the accused asking PW 5 to go near the Tube well, had taken the victim to the bath room where he sexually assaulted the victim. Though PW 5 had not seen the accused committing sexual assault, but he corroborated the other parts of the incident starting from the accused calling them to his house till taking the victim to the bath room and the accused opening his pant's chain.

**21.** PW 1 and PW 4 being the father and mother of the victim are the most natural witnesses. PW 4 heard about the incident from her victim son who narrated that on the day at around 2/3 p.m. when the victim along with PW 5 were playing in front of their house, accused gave the boys one rupee note each. Then the boys went to shop but finding the shop closed, they went to the house of the accused. Thereafter, on feeling the need to urinate the accused asking PW 5 to go outside, took her son to the bath room. In the bath room accused touched his private part through his private part. At that time though PW 5 called the victim but her son did not respond. Thereafter her son coming there from informed her that accused took him to the bath room and did have carnal sex with him. PW 1 the victim's father also stated that his brother (PW 2) informed him that the accused luring to give money and mango called the victim (PW 8) and PW 5 to his house and accordingly when they came, the accused asked the victim to touch his penis and attempted to commit carnal intercourse.

**22.** PW 2 is the brother of the informant who reported the incident to the victim's father. According to this witness, on the day when he returned home, the mother of the victim reported to him that the accused calling the victim to his house attempted to commit bad act with his nephew when he was playing along with friend in front of his house.

**23.** From the evidence as discussed above, it reveals that the corroborative evidence of the parents of the victim - PW 1 and PW 4,

uncle - PW 2 and the friend as well as the cousin brother of the victim (PW 5), is that on the day when the victim was playing with PW 5 in front of their house, accused came there and luring to give money called them to his house and also offered them mango at the roof of his house. Thereafter, when PW 5 and the victim PW 8 felt the urge to urinate, then PW 5 proceeded towards the tube well while the accused took the victim to his bath room and then committed the offence. Though the victim stated that the accused took him on his lap, touched his penis and in the bath room opening his (accused) pant as well as the pant of the victim inserted his (accused) penis in his anus, but PW4 the victim's mother stated that the victim reported to her that the accused had touched the private part of the victim by his private part.

**24.** The Ld. Defence counsel vehemently argued that the informant nowhere stated that he disclosed the incident to neighbours whereas PW 3 stated that he heard about the incident from his neighbour and though PW 1 the victim's father testified that his brother PW 2 reported him about the incident but PW 2 did not state that he had reported to the informant and the version of PW 2 that PW 4/victim's mother reported him about the incident was not corroborated by PW 4 and therefore the evidence of those witnesses cannot be taken into consideration being hearsay witnesses.

In this respect he placed reliance on the ruling reported in

- 1. 2011 Cri.L.J. 1844,**
- 2. (1998) 2 GLR 334 and**
- 3. (1980) SCC (Cri) 145.**

But this is a case of sexual offence on a male child of 8 years old only and it is well settled that a victim of sexual assault does not stand on the same footing as that of an accomplice. Hence, her/his evidence does not need corroboration. If the evidence of a victim is found believable and trustworthy, no further corroboration may be insisted.

The law that emerges on the issue is to the effect that the statement of the victim, if found to be worthy of credence and reliable, requires no corroboration.

**25.** The Hon'ble Apex Court in the case of **State of Himachal Pradesh Vs. Sanjay Kumar @ Sunny, reported in (2017) 2 SCC 51**, in paragraph **31** observed as follows:

"After thorough analysis of all relevant and attendant factors, we are of the opinion that none of the grounds, on which the High Court has cleared the respondents, has any merit. By now it is well settled that the testimony of a victim in cases of sexual offences is vital and unless there are compelling reasons which necessitate looking for corroboration of a statement, the courts should find no difficulty to act on the testimony of the victim of a sexual assault alone to convict the accused. No doubt, her testimony has to inspire confidence. Seeking corroboration to a statement before relying upon the same as a rule, in such cases, would literally amount to adding insult to injury. The deposition of the prosecutrix has, thus, to be taken as a whole. Needless to reiterate that the victim of rape is not an accomplice and her evidence can be acted upon without corroboration. She stands at a higher pedestal than an injured witness does. If the court finds it difficult to accept her version, it may seek corroboration from some evidence which lends assurance to her version. To insist on corroboration, except in the rarest of rare cases, is to equate one who is a victim of the lust of another with an accomplice to a crime and thereby insult womanhood. It would be adding insult to injury to tell a woman that her claim of rape will not be believed unless it is corroborated in material particulars, as in the case of an accomplice to a crime. Why should the evidence of the girl or the woman who complains of rape or sexual molestation be viewed with the aid of spectacles fitted with lenses tinged with

doubt, disbelief or suspicion? The plea about lack of corroboration has no substance ([See Bhupinder Sharma v. State of Himachal Pradesh](#)). Notwithstanding this legal position, in the instant case, we even find enough corroborative material as well, which is discussed hereinabove.”

In this case the cogent evidence of the victim is that the accused touched his penis. This part of the victim’s evidence is found reliable and inspire confidence of the court and does not warrant any further corroboration.

**26.** The Ld. Defence counsel placing reliance on the ruling reported in **(2010) 4 GLR 567 and 1996 2 GLR 421** further submitted that the statements made by the witnesses before the court are different from those made before the Investigating Officer and therefore cannot be acted upon.

But on careful perusal of the statement of the victim u/s 161 Cr.P.C. it is seen that the victim had stated before the Investigating Officer specifically that the accused opened his pant and touched his penis. The fact of carnal intercourse however has not been stated by the victim before the Investigating Officer. Therefore to the extent that the accused opened the victim’s pant and touched his penis finds place in the deposition of the victim in court and this can be acted upon. Further though during cross of PW 5, defence side confronted his statement on oath with his statement u/s 161 Cr.P.C., but the material particulars that the accused luring them by giving money called them to his house where the accused offered mango and that on their feeling the urge to urinate, the accused asked him to go near tube well while the accused took the victim to the bathroom and later on the victim told him that the accused asked him (victim) to touch his penis was also stated before the Investigating Officer. So there are only minor exaggeration or discrepancies in the factual aspect in the PW’s statement on oath.

It is well settled that omissions in previous statement or discrepancies in narrating the details of the occurrence due to fading of memory or lapse of time etc., cannot be considered to brush aside the entire testimony of a witness which is otherwise found to be reliable. On a close and dispassionate scrutiny of the evidence of the victim shows that defence could elicit nothing tangible to discredit his version regarding the fact of accused taking him to his house by luring him and thereafter touching his penis in the bath room. The omission or contradiction which does not go to the root of the case is not destructive of the prosecution case. The omissions that has been referred above by the defence is not enough to shake the authenticity of the case, as the evidence of the victim and PW 5 are found fully reliable, consistent and trustworthy on material particulars regarding sexual assault. The minor omissions here and there cannot be a ground to discard their evidence.

**27.** The defence counsel claiming the victim as a tutored one submitted that in cross-examination, the victim admitted that when he was brought to the court for recording statement before the Magistrate, police instructed him what is to be stated before the Magistrate and accordingly, he had made to statement before the learned Magistrate on being tutored. But on further perusal of the victim's cross-examination, it is seen that victim had at the same time denied that he had made his statement before the Magistrate on the instruction of the parents and police. It is well settled that difference in some minor detail, which does not otherwise affect the prosecution case, even if present, would not prompt the court to reject the evidence on account of minor variation and discrepancies. The evidence of the victim does not clearly indicate that he is a tutored one. In deposition as well as on statement u/s 164 Cr.P.C. he made the same version. Victim's evidence is also corroborated by PW 5 as discussed above. Evidence of the victim is found spontaneous and trustworthy without inviting any suspicion of being tutored. I find nothing to disbelieve his evidence.

**28.** Settled law is that a child witness is required to be considered with care and caution and possibility of being tutored is required to be ruled out, but cases involving sexual molestation and assault requires a different approach. **In Dattu Ramrao Sakhare Vs. State of Maharashtra (1997 (5) SCC 341)**, Hon'ble Supreme Court held that: (i) A child witness if found competent to depose to the facts and reliable one, such evidence could be the basis of conviction. (ii) Even in the absence of oath the evidence of a child witness can be considered under section 118 of the Evidence Act provided that such witness is able to understand the answers thereof. (iii) The evidence of a child witness and credibility thereof would depend upon the circumstances of each case. (iv) The only precaution which the Court should bear in mind while assessing the evidence of a child witness is that the witness must be a reliable one and his/her demeanour must be like any other competent witness and there is no likelihood of being tutored. (v) The decision on the question whether the child witness has sufficient intelligence primarily rests with the trial Judge who notices his manners, his apparent possession or lack of intelligence, and said Judge may resort to any examination which will tend to disclose his capacity and intelligence as well as his understanding of the obligation of an oath. (vi) This precaution is necessary because child witnesses are amenable to tutoring and often live in a world of make beliefs. (vii) Though child witnesses are pliable and liable to be influenced easily, shaped and moulded, but if after careful scrutiny of their evidence, the Court comes to the conclusion that there is an impress of truth in it, there is no obstacle in the way of accepting the evidence of a child witness.

**29.** Furthermore, taking the plea of enmity, defence pointed out that during cross of parents of the victim and PW 2, defence suggested that prior to the incident, the truck carrying materials to the house of the informant damaged the wall of the accused regarding which an altercation took place and hence this case was falsely instituted. But it is unbelievable that the story even if true, a

parent would set up their child that too a male child with such an allegation of sexual assault. Even if the truck damaged the wall of the accused, why the informant instead of the accused, would lodge a case. Except that the informant could elicit nothing that he has any sort of enmity with the accused for false implication. In the above, I find no force in the argument of the learned defence counsel.

**30.** In the case in hand, according to PW1, the victim's father, he was reported that the accused asked his son to touch his penis and opening his pant attempted to commit carnal intercourse with his son and according to PW 4 the victim's mother, the victim told her that the accused taking her son to his bath room touched his private part through his (accused) private part. Even if PW 2's evidence is discarded, the inevitable conclusion is that the victim was sexually assaulted by the accused. The Medical Officer Dr. Pradip Kr. Barman who examined the victim, is a Radiologist and he only ascertained his age and did not submit any report in respect of the victim's injury. The victim child in cross examination also admitted that he sustained no injury on his anus. As such, from the unshaken evidence of PW 1, PW 4, PW 5 it can be inferred that no carnal intercourse was done but it is well established beyond all reasonable doubt that the accused on the unfortunate day giving money called the victim and PW 5 to his house and offered mango and when the boys felt the urge to urinate, the accused asked PW 5 to go near tube well and taking the victim to the bath room, touched his penis. The conclusion that is arrived is on the basis of the clenching and unshaken testimony of the aforesaid witnesses. Hence, the ruling placed by the defence reported in **(2019) 2 GLR 291** is distinguishable and cannot come to the aid of the defence. Therefore, the prosecution succeeded in establishing that the accused Joygeswar Dihingia committed sexual assault on the victim who is below 12 years of age and it comes within the purview of aggravated sexual assault u/s 9(m) of POCSO Act punishable u/s 10 of POCSO Act.

**31.** Situated thus, conclusion which is irresistible is that the prosecution succeeded in establishing that the accused Joygeswar Dihingia committed sexual assault on the child victim below the age of 12 years by touching his penis. Accordingly, accused Joygeswar Dihingia is held guilty for the offence punishable u/s 10 of POCSO Act and convicted accordingly and acquitted him from the charge u/s 377 of IPC.

**32.** I have heard the accused Joygeswar Dihingia on the point of sentence. His statement is recorded where he stated that he is a retired govt employee and is to look after his wife with his income and prayed for leniency. On the other hand, the learned Special Public Prosecutor submitted that the crime being heinous, the accused should not be dealt with leniency.

**33.** I gave my anxious consideration on the aspect of quantum of sentence. Section 10 of POCSO Act prescribes punishment upto 7 years but the same shall not be less than 5 years.

**34.** In the instant case, the offence committed by the accused is sexual assault against a child of 7/8 years. Considering the submission of the accused, I am of the considered opinion that the minimum punishment provided by law for the offence u/s 10 of POCSO Act will meet the ends of justice.

**35.** Considering all aspects, I sentence the convict Joygeswar Dihingia to undergo Rigorous Imprisonment for 5 (five) years and also to pay a fine of Rs. 5,000/- (Rupees five thousand), in default to undergo Simple Imprisonment for another 2 (two) months for the offence punishable u/s 10 of POCSO Act. The period of detention already undergone by the accused shall be set off against the terms of imprisonment as per provision of section 428 of Cr.P.C. His bail bond stands cancelled and surety be discharged.

**36.** Convict/accused convict Joygeswar Dihingia be sent to Central Jail, Sonitpur, Tezpur to serve the sentence.

Case is recommended for compensation of the victim as per provision of Section 357 A of Cr.P.C. by District Legal Services Authority, Sonitpur, Tezpur.

**37.** Let a free copy of the Judgment be furnished to the convict.

**38.** Also send a copy of the Judgment to the District Magistrate, Sonitpur, Tezpur as per provision of section 365 Cr.P.C. and a copy to the District Legal Services Authority, Sonitpur, Tezpur.

**39.** Given under my Hand and Seal of this Court on this the **14<sup>th</sup>** day of **May, 2019.**

(I.Barman)  
Special Judge,  
Sonitpur,Tezpur.

Dictated and corrected by me.

(I.Barman)  
Special Judge,  
Sonitpur,Tezpur.

**Prosecution witnesses.**

1. PW 1 : Father of the victim
2. PW 2 : Uncle of the victim
3. PW 3 : Bikash Nath
4. PW 4 : mother of the victim.
5. PW 5 : cousin brother of the victim.
6. PW 6 : Dr. Pradip Kr. Barman, Radiologist.
7. PW 7 : Miss B. Khakhlary, JM 1<sup>st</sup> class, Tezpur.
8. PW 8 : victim
9. PW 9 : SI Tabibur Rahman, I.O.

**Exhibits.**

- Ext. 1 : FIR
- Ext. 2 : Radiologist report
- Ext. 3 : 164 Cr.P.C. statement of the victim
- Ext. 4 : Order of learned CJM, Sonitpur, Tezpur
- Ext. 5 : Sketch map
- Ext. 6 : Chargesheet.
- Ext. 9 : sketch map
- Ext. 10 : Chargesheet.

**Material Exhibit.**

- Material Ext. 1 : seized panty.

**(I.Barman)**  
**Special Judge,**  
**SONITPUR: TEZPUR**