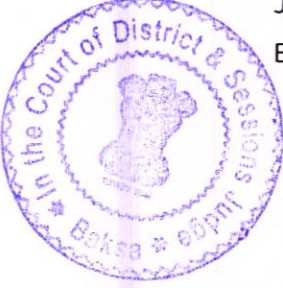


IN THE SPECIAL COURT :::::::::::::::::::: BAKSA AT MUSHALPUR

Present : Shri C. Das,
Judge, Sepcail Court,
Baksa, Mushalpur



JUDGMENT IN SPECIAL POCSO CASE NO.46/2018

U/S 4 of POCSO ACT

State

-versus-

Mahammad Ali

.... Accused

Appearance :

For the State : Mr. R. Chetry, Public Prosecutor, Baksa

For the accused : Mr. A.C. Azad, Advocate

Date of recording evidence : 19/5/15, 10/9/15, 22/12/15, 10/2/16, 19/3/16,
17/6/16, 11/6/18

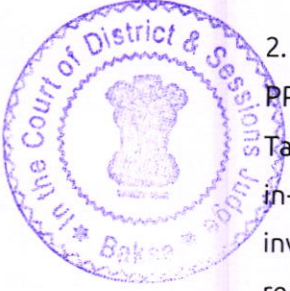
Date of argument : 4/10/18, 31/10/18, 14/11/18

Date of judgment : 26/11/18

JUDGMENT

1. The case of the prosecution briefly, is that on 01/10/14, the complainant Md. Rahim Ali lodged a FIR before the In-charge of Kaurbaha PP, alleging inter-alia that on 29/9/14, at about 2 pm., while his 12 years old daughter (name is withheld) was returning home after attending a marriage ceremony, the accused called her to his house from the road and offered to eat apple and biscuit at his home. Thereafter, the accused committed penetrative sexual assault upon her by gagging her mouth. Later on, the victim came home weeping and reported the incident. Hence, he called for a local bichar twice in the village. But the accused did not accept the decision of the bichar. The accused is a married person. Since he was waiting for the decision of local bichar, there is delay in lodging the FIR.


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2. The police upon receipt of the above FIR, registered the Kaurbaha PP GDE No.22 dated 2/10/14 and forwarded the same to the Officer-in-charge, Tamulpur police station for formal registration of a case. Accordingly, the Officer-in-charge, of Tamulpur PS. Case No.164/14 and started the process of the investigation. During the investigation, the I/O visited the place of occurrence, recorded the statement of the witnesses including the victim girl and prepared the sketch map of the place of occurrence. The I/O sent the victim girl for medical examination and recording her statement u/s 164 CrPC. The accused was also, arrested by the I/O. At the end, the I/O having found a prima-facie case well established, filed the charge-sheet against the accused to face trial in the court.

3. The accused when appeared in the court after receive of summons, was furnished with the relevant copy of the case immediately. After hearing both the sides and on perusal of the material on record, the charge u/s 4 of POCSO Act was framed against him. The charge so framed, was read over and explained to the accused who pleaded not guilty and claimed to be tried.

4. The prosecution during the trial, examined as many as, eight(8) witnesses including the I/O and M/O to support its case. Thereafter, during examination of the accused u/s 313 CrPC., he denied all the incriminating circumstances appeared against him in the evidence. The accused however, declined to adduce any evidence in his defence. The argument of the parties was heard at length.

POINT FOR DETERMINATION :

5. Whether on 29/9/14 at around 2 pm., at village; Niz-Kaurbaha, committed penetrative sexual assault upon the victim girl, aged about 12 years ;

DECISION AND REASON THEREFORE :

6. Initiating the argument, learned Public Prosecutor submitted that the evidence of the victim girl along with the evidence of other prosecution witnesses clearly supported its case and proves that the accused committed the offence as alleged by the prosecution. He submitted that there may some discrepancies here and there in the evidence but it must be taken note that the victim is a minor girl and as such, such discrepancies cannot take away her credibility in any manner. Further he submitted that in the cases of sexual assault,

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