

IN THE COURT OF SPECIAL JUDGE :::::::::::::::::::: BAKSA, MUSHALPUR

Present : Shri C. Das, AJS.
Judge, Special Court,
Baksa, Mushalpur

JUDGMENT IN SPECIAL POCSO CASE NO.48/2018

u/s 8 of POCSO Act

State

-versus-

Md. Safiur Ali

.....Accused

Appearance :

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

For the accused : Mr. M. Mazumdar, Advocate

Date of evidence : 9/9/15, 22/9/15, 29/7/16, 29/6/17

Date of argument : 29/10/18

Date of judgment : 12/11/18

JUDGMENT

1. The case of the prosecution briefly, is that on 19/6/15, the complainant Smti. Gita Kalita lodged a FIR before the Officer-in-charge of Tamulpur police station, alleging inter-alia that on the same day, at about 10 am., while her 14 years daughter was alone in her home, the accused came to her home under pretext to have a glass of water. The accused thereafter, pulled her daughter inside the house and forced her to lay down on the bed with an attempt to commit sexual assault upon her said daughter. Due to alarm of her daughter, the accused tried to flee away. But local people could able to apprehend the accused and handed him over to the police.

2. Accordingly, the police registered the Tamulpur PS. Case No.111/15 and started the process of investigation. During the investigation, the police visited the place of occurrence, examined the witnesses. At the end, the police having

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found a prima-facie case well established, submitted the charge-sheet against the accused to face trial in the court.

3. When the accused was produced before the court, he was immediately, furnished with the relevant copy of the case. After hearing the both sides and on perusal of the material on record, the charge u/s 8 of POCSO Act framed against the accused. The charge was then, read over and explained to the accused who pleaded not guilty and claimed to be tried.

4. In the trial, the prosecution examined as many as, nine (9) witnesses including the I/O to support its case. The accused in his statement recorded u/s 313 CrPC., took the plea of total denial of all the incriminating circumstances appeared against him. However, the accused declined to adduce any evidence in his defence. Thereafter, the argument of both sides was heard at length.

POINT FOR DETERMINATION :

5. Whether on 19/6/15, at around 10 am., the accused committed sexual assault upon the victim girl ;

DECISION AND REASON THEREAFORE :

6. At the outset of argument, learned Public Prosecutor, Baksa, submitted that the evidence on record to prove the guilt of the accused. He submitted that if the evidence of the victim is carefully perused, it would appear that it was the accused who by entering into the house of the victim, tried to commit sexual assault upon her but due to her timely alarm, local people caught him while tried to flee away from the crime scene. Hence the conduct of the victim causing due alarm on right time, is sufficient enough and relevant to point the guilt towards the accused and as such, the accused is liable to be punished under the relevant provisions of law, he submitted. Learned Public Prosecutor placed the decision of Hon'ble Delhi High Court, reported in **CRL. A. 751/2014 Chander Singh vs. State, decided on 3/6/16** wherein, it was observed as that it would be now apposite to note the testimony of PW-4 the mother of the prosecutrix who deposed that on February 09.2013 at about 7.00 PM her daughter had gone to throw the garbage in the public dustbin near her house. When her daughter came back from the public dustbin she was very nervous and perplexed. When she asked from her by making gestures the prosecutrix told her by gestures that one person misbehaved with her by pressing her mouth and breast and putting his hand on her lower back side.

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