

**HIGH COURT OF TRIPURA  
AGARTALA**

**Crl.A(J) No.20 of 2021**

Sri Sobiram Reang, Son of Sri Parajoy Reang of Searachandra Para, P.S:  
Damcherra, District: North Tripura

.....Appellant(s).

V E R S U S

The State of Tripura

.....Respondent(s).

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For Appellant(s) : Ms. V. Poddar, Advocate,  
Mr. R.G. Chakraborty, Advocate.

For Respondent(s) : Mr. S. Debnath, Addl. P.P.

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**HON'BLE THE CHIEF JUSTICE (ACTING)  
HON'BLE MR. JUSTICE ARINDAM LODH**

Date of hearing and judgment : **19<sup>th</sup> January, 2023.**

Whether fit for reporting : **NO.**

**JUDGMENT & ORDER (ORAL)**

Challenge in the instant appeal is directed against the judgment and order of conviction and sentence dated 14.11.2019 and 16.11.2019 respectively passed by the learned Special Judge (POCSO), North Tripura, Dharmanagar in case No. Special (POCSO) 28 of 2019 whereby the Special Judge convicted the accused-appellant under Section 376AB read with Section 4 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act, for short) and sentenced him to suffer rigorous imprisonment for life for the commission of offence punishable under Section 376AB of

the Indian Penal Code (IPC, for short) and also to pay a fine of Rs.10,000/- (Rupees ten thousand) only for the said offence and in default thereof to undergo further rigorous imprisonment for one year.

2. The facts of the case as revealed from the Ejahar filed by Sri Bajuram Reang, father of the victim girl (name withheld) and evidences on record, in a nut shell, are that on 14.04.2019 at noon, the appellant-convict had called the victim girl, aged about 10 years, daughter of Sri Bajuram Reang in his room and had committed rape upon her and threatened to kill her if she disclosed the said incident to anybody. At the initial stage, the victim girl did not utter a single word regarding the rape committed upon her on 14.04.2019, but one night she felt pain to urinate which she duly informed her parents and subsequently also informed them about incident occurred on 14.04.2019 and further informed her parents that about 10/12 days back from 09.05.2019, the appellant-convict had allured her with a biscuit to eat and committed rape upon her and for several times, he kept on committing rape on her. After knowing all such, the father of the victim i.e. Sri Bajuram Reang had taken the victim girl to Makunda Hospital of Assam for her treatment. Thereafter, victim's father had lodged an Ejahar with the Officer-in-Charge of Damcherra Police Station. On the basis of the said

Ejahar, Officer-in-Charge, Damcherra Police Station had registered an FIR being No.2019/DMC/007 dated 12.05.2019 against the appellant-convict for commission of offences punishable under Section 376(2)(i)(n)/506 of IPC read with Section 4 of POCSO Act.

3. On completion of investigation, the Investigating Officer being satisfied that a prima facie case has been well established, submitted charge sheet against the appellant-convict for commission of offences punishable under Section 376(2)(i)(n)/506 of IPC read with Section 4 of POCSO Act. Upon receipt of the charge sheet, the Trial Court took cognizance of the offences punishable under Section 376(2)(i)(n)/506 of IPC read with Section 4 of POCSO Act and subsequently after hearing both sides on the point of framing of charge being prima-facie satisfied, charges under Sections 376AB/506 of IPC read with Section 4 of POCSO Act were framed against the appellant-convict. After framing of charges, learned Trial Court examined the prosecution witnesses and thereafter on completion of prosecution evidence having examined the accused under Section 313 of Cr.P.C., convicted him to suffer rigorous imprisonment for life for the commission of offence punishable under Section 376AB of the IPC and also liable to pay a fine of Rs.10,000/- (Rupees ten thousand) only for the said

offence and in default thereof to undergo further rigorous imprisonment for one year. Being aggrieved and dissatisfied with the judgment passed by the learned Special Judge (POCSO), North Tripura, Dharmanagar, the appellant-convict has preferred the present appeal. Hence, this case.

4. Heard Ms. V. Poddar, learned counsel appearing for the appellant-convict and Mr. S. Debnath, learned Additional Public Prosecutor, appearing on behalf of the respondent-State.

5. Ms. V. Poddar, learned counsel appearing on behalf of the appellant-convict contends that no specific time of the incident of committing rape was mentioned in the Ejahar lodged by the father of the victim girl except the phrase “for several times”. Learned counsel also contends that in the Ejahar, the father of the victim stated that in the afternoon of 09.05.2019, the victim girl became ill whereas the victim stated otherwise in her statement recorded under Section 164(5) of Cr.P.C. that she felt pain to urinate at the night of a certain day. So, there is a discrepancy between the time mentioned in the Ejahar and the recorded deposition. She further contends regarding delay of 3 days in filing the written complaint/ ejahar after the alleged incident of rape. Regarding the deposition of the

victim girl recorded under Section 164(5) of Cr.P.C, counsel contends that the victim girl was 10 years old at the time of alleged occurrence and does not even know Bengali and her language was translated and that there was no other witness to corroborate her statement as well. She also contends that if any such violent act had happened for several times, there must have been some injury on the person of the victim girl but no injury on the body was sustained by the victim girl. Learned counsel further contends that there is a lack of credibility in the report of PW 10 because the victim herself has said nothing to her parents immediately after the alleged rape. She also contends that except PW-8, a neighbour of the complainant who is a hearsay witness, there was no independent witness to corroborate the version of the victim as well as her father, i.e. the complainant. Accordingly, she prays for setting aside the impugned judgment and order of conviction and sentence dated 14.11.2019 and 16.11.2019 respectively passed by the learned Special Judge (POCSO), North Tripura, Dharmanagar in case No. Special (POCSO) 28 of 2019.

6. On the other hand, Mr. S. Debnath, learned Additional Public Prosecutor appearing for the respondent-State, vehemently opposed the contentions and submissions made by the learned counsel appearing on

behalf of the appellant-convict *inter alia* contending that the victim girl was repeatedly raped which is crystal clear in nature from the recorded statement of the victim girl recorded under Section 164(5) of Cr.P.C. and the same has been totally corroborated by the medical evidence of PW 10 who had first attended the victim at the Makunda Christian Leprosy & General Hospital. Mr. Debnath, learned Additional Public Prosecutor, also contends that the contradictions and exaggerations raised by the learned counsel for the appellant-convict will not serve any purpose at this stage since no question was raised regarding the statement of the victim girl during her cross-examination before the court below. Learned Additional Public Prosecutor further contends that there is no infirmity in the judgment of Trial Court and if the same is interfered with by acquitting the convict, a wrong message will go in the society since a minor girl has been raped which is a heinous crime in nature. Accordingly, he contends that there is no error in the impugned judgment and order of conviction and sentence passed by the learned Special Judge and prays for dismissal of the appeal sustaining the conviction of the appellant-convict.

7. Let us now evaluate and appreciate the evidence of the vital prosecution witnesses.

It is revealed from the evidence of PW 2, the victim, that on the fateful day, the appellant-convict called her to go with him with an allurement of giving some snacks. While she went to his dwelling hut, he forcibly raped her by removing her wearing apparels for which she received pain and injury over her genital organ and other parts of her body and that few days back of the incident, one day the appellant-convict similarly called her and took her to a jungle beside a fishery and forcibly removed her wearing apparels and committed rape on her and she did not report the matter to anybody out of fear of the appellant-convict.

8. From the evidence of PW 10, Dr. Caroline, the Medical Officer who attended and examined the victim, it appears that on 10.05.2019 the victim was brought to the Makunda Christian Leprosy & General Hospital, Assam by her parents for treatment and the parents of the victim stated to her that the victim was raped by one of her neighbours on multiple times and a week back of the day and she was further sexually assaulted by the accused and the victim was found bodily suffering due to pain at her abdomen and her private parts. Accordingly, PW 10 had examined the victim and during examination, she found the hymen of the victim was ruptured and small abrasion was found close to the vulva but no foreign

particle was found in her private parts and after examination, she came to the conclusion that the victim might have been raped and accordingly, she gave medical advice and also prescribed medicine required for the treatment of the victim at that stage.

9. Having heard the submissions of the learned counsel for both the parties and on appreciation of prosecution evidence, we are of the considered view that on the strength of the statements of PW-2 and PW-10 and the medical report wherein it is categorically stated that the hymen is torn and even as per the evidence of PW-10, the Medical Officer who has examined the victim and opined that the private parts of the victim girl are swollen, the possibilities of having intercourse number of times, cannot be ruled out. Therefore, no grounds are made out for interfering with the judgment and order of conviction passed by the learned Special Judge.

10. At this juncture, Ms. V. Poddar, learned counsel for the appellant-convict, submits that the convict has been sentenced to rigorous imprisonment for life and languishing in jail custody and prays that the life imprisonment may be modified and reduced to 20 years rigorous imprisonment on compassionate ground in view of the fact that the

appellant-convict was about 20 years of age at the time of commission of crime and has his whole life ahead of him.

As such, considering the submission of learned counsel for the appellant-convict, we are of the considered opinion that it would be appropriate to modify the sentence of rigorous imprisonment for life by reducing it to the extent of 20 years R.I. giving the convict an opportunity to explore the possible future avenues ahead after completion of his sentence period.

11. Accordingly, the criminal appeal is partly allowed. The judgment and order of conviction dated 14.11.2019 passed by the learned Special Judge (POCSO), North Tripura, Dharmanagar in case No. Special (POCSO) 28 of 2019 is affirmed with a modification that the sentence of rigorous imprisonment for life is reduced to the extent of rigorous imprisonment for 20(twenty) years. The period of detention already undergone by the appellant-convict during the investigation, inquiry and trial shall be set off against the term of imprisonment imposed herein as provided under Section 428 of Cr.P.C.

12. With the aforesaid observations and directions, this criminal appeal is partly allowed and disposed of.

Send down the lower court records forthwith.

Pending application(s), if any also stands disposed of.

**(ARINDAM LODH), J**

**CHIEF JUSTICE (ACTING)**

*Pulak/Pijush*

