

GAHC040007242023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : Crl.Rev.P.15/2023

Pitam Lamnio
Age: 27
Occupation :
Address:S/o Shri Dapung Lamnio and Brother of Sri Thomas Lamnio.
Permanent Resident of Village Lamnio
PO Khenewa
PS Seppa
East Kameng District
Arunachal Pradesh
on behalf of the accused Shri Thomas Lamnio

VERSUS

THE STATE OF AP
Age: 0
Occupation :
Address:through Public Prosecutor.

Advocate for : Sunil Mow
Advocate for : P P of AP appearing for THE STATE OF AP: Advocate appearing for
respectively.

BEFORE
HONBLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 17-07-2023

Heard Mr. S. Mow, the learned counsel for the petitioner and

Mr. T. Lamnio, the learned counsel appearing on behalf of the accused person, Shri Thomas Lamnio.

2 The petitioner has filed this application under Section 401/397 and 482 of the Cr.P.C, 1973 with prayer for quashing of the order dated 19.06.2023 passed by the learned Special Court (POCSO) for the Districts of West Kameng, East Kameng and Tawang, Arunachal Pradesh in connection with POCSO Case No.11/2022 arising out of Seppa W.P.S. Case No.12/2022, under Section 376 (3) IPC, R/w Section 6 of POCSO Act.

3. Heard Mr. T. Ete, the learned Additional Public Prosecutor for the State of Arunachal Pradesh

4. It is submitted on behalf of the accused that he has approached the trial Court with several petitions for age determination of the victim, who has falsely given her age as minor despite the fact that the victim is a major. However, the learned trial court rejected the petitions and the accused had to approach this Court for age determination of the victim. Vide order dated 16.06.2023 in criminal revision petition No.12/2023, this Court directed the trial court to determine the age of the victim as the age determination of the victim is relevant for the purpose of jurisdiction of this case.

5. The petitioner is aggrieved by the orders dated 19.06.2023 and 20.06.2023 passed by the learned trial court in POCSO case

No.11/2022 and corresponding W.P.S. Case No. 12/2022 and the petitioner has challenged the order dated 19.06.2023 passed by the learned trial court. It is submitted by the petitioner that this case was fixed for age determination as well as for argument but the petitioner will be highly prejudiced if age is not determined before the hearing of the arguments.

6. The learned Additional Public Prosecutor has submitted that no error has been committed by the learned trial court while passing the orders dated 20.06.2023 and 19.06.2023. Moreover, 20.06.2023 was not challenged by the petitioner, whereas, the order dated 19.06.2023 was challenged by the petitioner.

7. I have perused the orders. Both the orders are fixed for age determination of the victim as well as for final argument. The trial court is directed to comply with the order dated 16.06.2023 passed by this court in connection with criminal revision petition No.12/23 and determine the age of the victim as per law before final hearing of the argument. The proceeding of the POCSO Case No.11/2022 shall continue and trial court is to dispose of the matter of age determination within 1(one) month.

In terms of above observation, the petition is disposed of.

JUDGE