

GAHC010155392022



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

Case No. : CRL.A(J)/98/2022

SRI BUDHESWAR HAZARIKA.
S/O- LATE SISON HAZARIKA, R/O- ADHAR SATRA TINIALI, P.O., P.S. AND
DIST.-GOLAGHAT, PIN- 785702, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:SRI ATULYA KRISHNA DAS
S/O- LATE AMULYA KRISHNA DAS
R/O- KUMARPATTY NEAR NAMGHAR
P.O. AND P.S. GOLAGHAT
DIST. GOLAGHAT
PIN- 785621
ASSA

Advocate for the Petitioner : MS S SHARMA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE MALASRI NANDI

Date : 12-01-2024

JUDGMENT AND ORDER

(C.A.V)

(K.R. Surana, J)

Heard Ms. S. Sharma, learned legal aid counsel for the appellant. Also heard Ms. B. Bhuyan, learned senior counsel and Addl. P.P. for the State, assisted by Ms. P. Bora, learned counsel, as well as Ms. B.R.A. Sultana, learned legal aid counsel for the informant i.e. respondent no.2.

2. The appellant has filed this appeal from jail as per the provisions of section 383 of the Cr.P.C. By filing this appeal under section 374(2) of the Cr.P.C., the appellant has assailed the judgment dated 09.03.2022, and sentence dated 11.03.2022, passed by the learned Special Judge, POCSO, Golaghat, thereby convicting the appellant for committing offence punishable under section 6 of the POCSO Act. The appellant was sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.5,000/-, in default to suffer rigorous imprisonment for a period of 3 (three) months for the offence under section 6 of the POCSO Act, 2012.

3. On 29.12.2020, Atulya Krishna Das gad lodged an FIR before the Officer-in-Charge of Golaghat Police Station to the effect that the appellant, his minor daughter and son were living in his rented house since last three years and the women in the neighbourhood upon noticing physical changes in the victim 'SH', the 13 (thirteen) year old minor daughter of the appellant asked her what had happened and then she narrated that his father i.e. the appellant had been establishing physical relationship with her and he had threatened her that he would beat her up if she disclosed it to others and so the neighbouring people had come to the rented house of the appellant at 02:30 PM and questioned him and his daughter and at that time also he had threatened to beat up her daughter. Later on, with the help of the locals, the appellant was

detailed and the police was informed. Accordingly, Golaghat P.S. Case No. 924/2020, corresponding to G.R. 1613/2020 was registered under sections 376(2)(i) IPC read with section 4 of POCSO Act.

4. After investigation of the case charge-sheet was submitted against the appellant. The learned Trial Court had read over, interpreted and explained the charge framed against the appellant of having committed offence punishable under section 6 of the POCSO Act, to which the appellant had pleaded not guilty and claimed to be tried.

5. In course of trial, the prosecution had examined 11 PWs, namely, Atulya Krishna Das (PW-1), Namita Barua (PW-2), Shewali Hazarika (PW-3), Ruhini Rajbangshi (PW-4), Anamika Das (PW-5), Monowara Begum (PW-6), Shahid Khan (PW-7), Parijat Bora (PW-8), Priyanka Hazarika (PW-9), Dr. Sunita Ekka (PW-10) and Sanjay Sanyal (PW-11) and the following documents were exhibited, viz., *ejahar* (Ext.1); seizure list (Ext.2); statement of the victim under sec.164 Cr.P.C. (Ext.3); Form-I for Women/victim/ survivor Compensation Scheme (Ext.4); medical examination report (Ext.5); clinical pathology report (Ext.6); ultrasonography report (Ext.7); USG copy (Ext.8); sketch map (Ext.9); charge-sheet (Ext.10).

6. Upon completion of examination of PWs, on 02.03.2022, the appellant was examined by the learned Trial Court by placing the incriminating materials appearing against him. The appellant denied the materials appearing against him as false. However, he had declined to adduce any evidence in his defence.

7. The learned Trial Court had framed the following points of determination:

- i. *Whether the accused person is the biological father of the victim S.H. and the said victim was in custody of the accused person?*
- ii. *Whether the accused person committed penetrative sexual attack upon the victim, who was 13 years old, more than once?*
- iii. *Whether the victim became pregnant as a result of such sexual intercourse by the accused person?*

8. The learned Trial Court had discussed the evidence of the PWs and found the evidence to be reliable and convincing. The learned Trial Court had also discussed the sequence of events relating to the neighboring womenfolk noticing physical changes in the minor victim girl; conduct of instant pregnancy test by PW-9 which disclosed positive for pregnancy; disclosure of the victim about regular sexual intercourse by the appellant, who was her own father; diagnosis by the doctor of 19 to 20 week pregnancy carried by the victim; termination of pregnancy by delivery of a child by the victim which was dead; unimpeached evidence of the victim against the appellant. Accordingly, it was held that the prosecution was able to prove the guilt of the appellant beyond any doubt not only through foundational facts but also with cogent and reliable evidence. It was also held that non-conducting of DNA test was not fatal in this case. Resultantly, the appellant was convicted and sentenced as mentioned herein before.

9. The learned legal aid counsel for the appellant had meticulously referred to the evidence on record as well as to the documentary exhibits.

10. Assailing the impugned judgment, the learned legal aid counsel had submitted that the case of the prosecution was that the women of the locality had questioned the victim and had conducted the pregnancy test, but all the said women were not examined by the prosecution, which had vitiated the trial. It was also submitted that the pregnancy test done on the victim was

without her consent and without the consent of the appellant, who was her father and natural guardian and therefore, not only the pregnancy test purportedly done by the PW-9 and that the pregnancy test report (Ext.6) conducted at the hospital was liable to be discarded.

11. The learned legal aid counsel for the appellant had referred to the provisions of section 26(1) of the POCSO Act, 2012 and it was submitted that the statement of the minor victim was not recorded in the presence of the parent of the minor victim or any other person on whom the child reposes trust, faith and confidence. Similarly, by referring to the provisions of section 27(3) of the POCSO Act, 2012 it was submitted that the medical examination of the victim was also not done in accordance with the provisions of section 27(3) of the POCSO Act, 2012 as she was not examined in the presence of the parent of the minor victim or any other person on whom the child reposes trust, faith and confidence. By referring to the provisions of section 33(4) of the POCSO Act, 2012, it was also submitted that the record does not reveal that the learned Trial Court had ensured that the Court had a child friendly atmosphere.

Therefore, on these three counts, it was submitted that the non-compliance thereof had vitiated the entire prosecution case against the appellant.

12. By referring to the provisions of section 20 and 23 of the POCSO Act, 2012 it was submitted by the learned legal aid counsel that the people in the neighbourhood had called media, and the print and electronic media had made extensive coverage of the allegations against the appellant. Accordingly, it was submitted that not only there was media trial against the appellant but as the provisions of section 20 and 23 of the POCSO Act, 2012 were not followed, the conviction of the appellant for committing offence punishable under section 6 of the POCSO Act, 2012 was vitiated.

13. Moreover, it was submitted that the victim girl was tutored by the neighbouring women and she had falsely implicated the appellant, through he was the father of the victim. Accordingly, it was submitted that the appellant was liable to be acquitted.
14. The learned Addl. P.P. and the learned legal aid counsel for the respondent no.2 had referred to the evidence of the prosecution and had submitted in support of the impugned judgment, conviction and sentence.
15. The Court has examined the LCR, and considered the submissions of all sides.
16. PW-1 was the informant in the case and he had exhibited his *ejahar* (Ext.1) and his signature thereon. In his examination-in-chief, the PW-1, namely, Atulya Krishna Das, had stated that the appellant was his tenant and had stayed in his house with his son and victim daughter. He had stated that before lodging the FIR, the neighbouring women had found physical change (pregnancy) of SH (victim) and they caused her pregnancy test through pregnancy kit and came to know that she was pregnant and when the women asked who had caused pregnancy, she answered that the appellant committed sexual intercourse with her and caused her pregnancy. She also informed that he had threatened her of being killed and other injuries if she disclosed it to anyone. He had stated that he had personally heard the narration when she stated the facts before the media and police and he immediately lodged an FIR with the police station and police immediately started investigation. He had stated that he believed that the age of the victim was 14 years and that since then she is staying with an N.G.O. He had exhibited the seizure list of the birth certificate of the victim as Ext.2 and his signature thereon. He had also exhibited the birth certificate (M.Ext.1) bearing Regd. No. 2768/07 dated

06.07.2007, containing date of birth as 26.06.2007. In his cross-examination, the PW-1 had stated that he did not see the appellant committing sexual intercourse. He had denied that he had not stated before the police the narration of the victim, and he had also denied that the appellant did not commit any sexual intercourse with his daughter. He had also stated that the victim was presently staying with C.I.C., Bokakhat.

17. Smt. Namita Barua (PW-2) had stated that the incident occurred about 1 year ago. She had seen a gathering in the house of the complainant and she went there and saw that the victim was telling the journalist that her father had raped her and did not allow her to sleep and that she lived with her father and that due to sexual intercourse, she became pregnant. In her cross-examination, PW-2 had stated that her house was at a little distance from the house of the appellant and that she did not know who the persons who had visited the appellant's house were. She had also stated that the victim came to her shop and had not told her about the rape in her shop. She had also stated that the mother of the victim had eloped with another man. She had also stated that as she was not asked, she did not state before the police that she had heard the victim telling the journalist that her father had raped her and did not allow her to sleep and she had denied that she had not heard so. She had denied that she had deposed falsely against the appellant.

18. The victim was examined as PW-3. Her name is not disclosed herein. She had stated in her examination-in-chief that she did not know the complainant Atul Krishna Das. She had stated that Budheswar Hazarika (appellant) was her father. She had stated that the incident occurred during winter time when she was in Class-V. She was residing with her younger brother, Kamal, in a rented house. Her mother had eloped with another man. She had

stated that her father committed sexual intercourse with her several times and he threatened her not to disclose the same to any person. She had stated that her brother did not realize because her father used to rape her when he was asleep and in course of time her stomach became large and the neighbours started to discuss about her. They did a test and told her that she was pregnant and she told them about the incident and they called the media (News Live). She had stated that she told her in detail that she had become pregnant because of sexual intercourse with her. The police came and took her before the Magistrate and she had stated the facts before the Magistrate and she had exhibited her statement as Ext.3 and her signatures thereon. She had stated that the police took steps for her treatment and after medical examination, she was kept in Sradha Griha, then at Ujala Home and thereafter, she was hospitalized in Civil Hospital for 3-4 days and she had delivered a baby and the doctors informed her that the baby was dead and that she did not see the baby properly. She had stated that she had applied for compensation before the Legal Services Authority, Golaghat and she had exhibited the application as Ext.4 and her signature thereon. She had also stated that she had a birth certificate vide registration no. 2768/07 dated 06.07.07, issued by the Registrar, Birth and Death, Golaghat, which she had seen in Court and that her date of birth is 26.06.2007. In her cross-examination, she had denied that her father did not commit sexual intercourse with her several times and denied that her father had not put her under threat not to disclose the same to anybody. She had also denied that her brother did not fell asleep at that time. She had also denied that she did not state to the police that the neighbours realized enlargement of her stomach and then it was detected that she was pregnant. She had also stated that when her father went out for work, she used to play with her younger

brother. She had also stated that no person from her neighbour used to visit their house during that time and she denied that it was not a fact that other people also used to come to their house.

19. Smt. Ruhina Rajbongshi (PW-4) had stated in her examination-in-chief that it was December, 2020, when one day she saw a gathering in front of that house and she went there and she had heard the victim telling the people and the media persons that the appellant had committed sexual intercourse with her and threatened her not to disclose it to anybody and she also told about her pregnancy. She had stated that the victim was staying with her father, studying in Class-V and that her mother had eloped with another man. In her cross-examination, PW-4 had denied that she did not hear the victim telling that her father had raped her. She had stated that she did not see any other person visiting the victim's house and that she did not visit the house of any other person. She had stated that she could not say if any other person used to visit the house of the victim and denied that she had deposed falsely.

20. The statement of Smt. Anamika Das (PW-5), Mrs. Manowara Begum (PW-6), Mr. Shahid Khan (PW-7), Smt. Parijat Bora (PW-8), and Smt. Priyanka Hazarika (PW-9) were somewhat similar to the evidence-in-chief and cross-examination of PW-4 to the effect that they all heard the victim narrating to the people and media that the appellant had raped her and made her pregnant. The PW-9 had further stated in her examination-in-chief that they conducted pregnancy test of the victim by a pregnancy kit and got the result positive as it detected two red lines after pouring her urine drop. The PW-9 had also exhibited her signature on the seizure list as Ext.2(2). Their statement could not be shaken during their respective cross-examination.

21. The Senior Medical & Health Officer at S.K.K. Civil Hospital,

Golaghat, who was working as District T.B. Officer in Golaghat District was examined as PW-10. Her name is not disclosed in this judgment. She had stated in her examination-in-chief that on 30.12.2020 at about 12:00 pm., upon medical requisition in connection with Golaghat P.S. Case No. 924/2020, she had examined SH, the victim, daughter of the appellant of Adharsatra Tiniali in Golaghat District vide emergency regd. No. 215. She had stated that the girl was aged about 13 years at that time and she was escorted by Women Home Guard, Smt. Dipika Rajbongshi and that in the presence of a female attendant, they had conducted urine test of the victim and the urinary HCG test resulted in positive. She had stated that on medical examination, she found that the victim was carrying a single live intrauterine fetus at 19-20 weeks of gestational age. She had exhibited the medical report (Ext.P-5) and her signature thereon. She had also exhibited the pregnancy report (Ext.P-6) and the signature of the Dr. Pallavi Gogoi [Ext.P-6(1)], which she know being her colleague and she had also exhibited the ultrasonography report (Ext.P-7) and the signature of Dr. Bikash Sharma [Ext.P-7(1)], which she know being her colleague and she had also exhibited the ultrasonography plate (Ext.P-8). In her cross-examination, she had stated that she personally did not know the victim and that the age determination test was not done.

22. Sanjay Sanyal, the I.O. was examined as PW-11. In his examination-in- chief, he had stated that on 29.12.2020, he was working as an attached officer in Golaghat P.S. and on that day Sri Atulya Krishna Das (PW-1) had lodged a written *ejahar* stating, *inter alia*, that Budhen Hazarika @ Budheswar Hazarika (the appellant), who was staying as a tenant in his house had committed sexual intercourse with SH, his 13 year old daughter, making her pregnant, and had threatened her not to disclose the same to any person. On

receipt of the *ejahar*, Golaghat P.S. Case No. 924/2020 under section 376(2)(I) IPC read with section 4 of the POCSO Act was registered. On being entrusted with the investigation, he visited the place of occurrence, recorded the statement of available witnesses and drew the sketch map of the place of occurrence. The local people had apprehended the appellant and then handed over to him and he was arrested. He had stated that he had made arrangement for recording of the statement of the victim under section 164 Cr.P.C. by a Magistrate and also for her medical examination and as per the medical report, the victim was carrying pregnancy. He had seized the birth certificate of the victim, which he had seen in Court on that day. After completion of investigation, he found *prima facie* case against the appellant and submitted the charge-sheet against the appellant under 376(2) IPC as well as section 6 of the POCSO Act. He had exhibited the seizure list (Ext.2), sketch map (Ext.9), charge-sheet (Ext.10) and his signatures thereon. In his cross-examination, the PW-11 had stated that the PW-1 had not stated before him that he had heard the victim telling the media and women folk that her father committed sexual intercourse with her and made her pregnant. The victim had stated before him that when her stomach got enlarged, the neighbouring people conducted the pregnancy test and told her that she was pregnant. Mrs. Priyanka Hazarika told him that the victim told her that her father had threatened her not to disclose the incident to anybody. He had stated that he does not know if the victim had delivered any child or not. He had also stated that he had not conduct DNA test of the appellant, the victim and the child in the womb. He had denied that he did not investigate the incident properly and without any material had filed the charge-sheet against the appellant.

23. In this case, the appellant i.e. the father had committed sexual

intercourse with his own minor daughter SH (PW-3). The defence could not bring out any contradiction between the statement of the victim (PW-3) during trial with her previous statement either before the I.O. or before the Magistrate under section 164 Cr.P.C. Thus, it can be said that the statement of the victim (PW-3) under section 164 Cr.P.C., and her evidence before the learned trial Court cannot be said to be an exaggeration of her previous statement before the I.O. Therefore, the statement of the victim inspires confidence of the Court as to its truthfulness.

24. The victim, being a minor aged 13 years, had no axe to grind against the appellant, who is her father and natural guardian. The defence did not even suggest to the victim that she was trying to shield someone by pointing accusing finger against her father. The appellant could not demonstrate that the victim had any reason to do so. The victim (PW-3) in her cross examination had stated that no person used to visit her house during that time and she had denied that other persons used to come to their house. In her cross-examination, the PW-4 had also stated that she did not see other persons visiting the house of the victim and that the victim did not use to visit the house of any other person. Although on repetitive question, the PW-4 had stated that she cannot say if any other person used to visit the house of the victim, but in the absence of any evidence from the prosecution that other people used to visit the appellant's house in his absence, the evidence of the PW-4 to the effect that other people did not visit the house of the victim and the accused, cannot be discarded as unbelievable. PW-5 had also stated in her cross-examination that so far as she knew, the victim did not visit the house of any other person.

25. The PW nos. 1 to 9 had all stated that the victim had told them that her father, i.e. the appellant had committed sexual intercourse with her.

The evidence of PW-9 that she had conducted pregnancy test of the victim with a pregnancy kit, though oral evidence, is consistent with the medical examination report (Ext.5), pathological report (Ext.6), ultra-sonography report (Ext.7) and ultra-sonography print (Ext.8), as these documentary exhibits also establishes beyond reasonable doubt that the victim was pregnant. The evidence of PW-3 to the effect that she had delivered a dead child remains unimpeached.

26. Thus, the prosecution has been able to prove and establish beyond reasonable doubt that the appellant's wife, i.e. the mother of the victim had purportedly fled away with another man and that instead of keeping a protective umbrella over his daughter, the appellant had caused child incestuous abuse of the victim, who was his own daughter on several occasions.

27. The learned legal aid counsel had made an attempt to project that there were certain questionable circumstances existing in this case. A gist of his submissions were as follows:-

- a. All the women of the locality who had questioned the victim and had conducted the pregnancy test were not examined.
- b. It was also submitted that the pregnancy test done on the victim was without her consent and without the consent of the appellant, who was her father and natural guardian.
- c. Similarly, the pregnancy test done by the PW-9 and that the report (Ext. nos. 5 to 8) conducted at the hospital was liable to be discarded because of lack of consent of the parents of the victim or any other women on whom the victim could repose trust.
- d. In this regard, the learned legal aid counsel for the appellant had

referred to the provisions of sections 26(1), 27(3), 33(4) of the POCSO Act, 2012 by submitting that the non-compliance of the said provisions had vitiated the entire prosecution case against the appellant.

- e. It was submitted that the provisions of section 20 and 23 of the POCSO Act, 2012 were not followed for which the conviction of the appellant for committing offence punishable under section 6 of the POCSO Act, 2012 was vitiated.
- f. The victim girl was tutored by the neighbouring women and she had falsely implicated the appellant.
- g. Due to the presence of minor brother of the victim, the committing of offence by the appellant was highly doubtful.

28. On the point mentioned at para-26(a) above that all the women of the locality who had questioned the victim and had conducted the pregnancy test were not examined, the Court is of the considered opinion that it is not the number of witness examined which would prove the case of the prosecution, but the prosecution had examined PW-9, who had stated that she had conducted the pregnancy test with a kit. Her evidence could be demolished during her cross-examination. Therefore, non-examination of other witnesses to the conduct of pregnancy test is not found to be fatal in this case.

29. The points mentioned at para-26(b) to para 26(d) above are taken up together. In this case in hand, the mother of the victim had reportedly abandoned the victim and had eloped with another person. The defence did not make any attempt to show that the mother of the victim was very much available in the locality. The appellant being the perpetrator of sexual intercourse against his daughter disentitled him to give any consent or to deny

his consent for medical examination of the victim. The pregnancy test conducted by PW-9 had not resulted in conviction of the appellant, but such test had set in motion the prosecution of the appellant. The medical examination of the victim was done by a female doctor and the Medical Officer (PW-10) in the presence of a female attendant. The victim (PW-3) was not questioned on the point that she had no trust or faith on the PW-10. Therefore, the medical report and documents, which were marked as Ext.5 to Ext.8 cannot be discarded merely because the appellant was not asked to give consent to the conduct of medical examination of his daughter or that he was not present when such test was conducted. Therefore, the Court does not find the prosecution case being vitiated merely because of lack of consent from parents of the victim. The presence of the female attendant during medical examination of the victim was sufficient compliance of the provisions of section 26(1) and 27(3) of the POCSO Act. Moreover, the victim (PW-3) was not questioned during her cross-examination that the Presiding Judge of the Special POCSO Court had not created child friendly atmosphere for the victim to depose freely. Therefore, it cannot be said that there was no compliance of the provisions of section 33(4) of the POCSO Act in this case or that the prosecution was vitiated on that count.

30. The point as mentioned in paragraph 26(e) is that the provisions of section 20 and 23 of the POCSO Act, 2012 were not followed for which the conviction of the appellant for committing offence punishable under section 6 of the POCSO Act, 2012 was vitiated. The Court is unable to hold so because, if the media had violated the said provisions of law, they may be liable for being prosecuted for its violation. However, there is no provision under the POCSO Act or under section 381 Cr.P.C., which makes the violation of the said

provisions by the media to vitiate the trial of the appellant.

31. The point referred to in paragraph 26(f) above, as urged by the learned legal aid counsel that the victim was tutored cannot be accepted because the evidence of the victim (PW-3), who was only 14 years of age then had deposed against the appellant could not be shaken so as to lead to any iota of doubt that the PW-3 was a tutored witness. Moreover, the PW-3 had also deposed to the effect after the police came, she was shifted to Sradha Griha, then to Ujala home and then to hospital. Thus, there is nothing to show that on the date when the victim (PW-3) had deposed before the Court, she was in contact with any of the PWs or that she was under their influence in any manner whatsoever. Moreover, the evidence of other PW nos. 1, 2, 3 and 5 to 9 could not be shaken during their respective cross-examination that the minor victim to disbelieve that the victim was not telling the truth. In fact, none of the witnesses were cross-examined on such point. Therefore, the Court is unable to accept the contention of the learned legal aid counsel.

32. The learned legal aid counsel had doubted the veracity of the accusation against the appellant because of the presence of minor brother of the victim, but it is seen that the victim (PW-3) had explained that his father committed sexual intercourse when her younger brother was asleep. Thus, the mere presence of the younger brother of the victim in the house when the appellant had committed child incestuous abuse of the victim did not erode the credibility of the evidence of the victim against the appellant.

33. In this case the victim (PW-3) was born on 26.06.2007. Hence, on 29.09.2021, when she was examined as PW-3 in the Court, her aged was about 14 years- 2 months- 26 days. Yet, the evidence of the victim before the Trial Court inspires confidence of the Court as to the truthfulness of her accusation

against the appellant, who is her own father.

34. The victim's narration of her incestuous abuse by the appellant finds corroboration from the FIR/ *ejahar* (Ext.1), medical evidence i.e. medical examination report (Ext.5); clinical pathology report (Ext.6); ultrasonography report (Ext.7); USG copy (Ext.8). Moreover, there was no cross-examination on the statement of the PW-3 to the effect that she was hospitalized in Civil Hospital for 3-4 days and she had delivered a baby and the doctors had informed her that the baby was dead and that she did not see the baby properly.

35. The other circumstances which has been taken note of is that the mother of the PW-3 i.e. the wife of the appellant had eloped with someone. Thus, the minor daughter (PW-3) and her younger brother were all alone in the house and that there were no visitors to their house and the victim also did not visit houses in their neighbourhood. There is nothing on record that the victim (PW-3) had any enmity and/or animosity against the appellant and therefore, there was no reason whatsoever for the victim to make false accusation against her father, i.e. the appellant and in the process to screen somebody else who had impregnated her.

36. In light of the discussions above, the Court is of the considered opinion that there is no infirmity in the judgment of conviction passed by the learned Trial Court against the appellant and the resultant punishment awarded to the appellant. Hence, the conviction and sentence against the appellant vide judgment dated 09.03.2022, and sentence dated 11.03.2022, passed by the learned Special Judge, POCSO, Golaghat, thereby convicting the appellant for committing offence punishable under section 6 of the POCSO Act and sentence awarded to the appellant to undergo rigorous imprisonment for life and to pay a

fine of Rs.5,000/- (Rupees Five thousand only), in default to suffer rigorous imprisonment for a period of 3 (three) months for the offence under section 6 of the POCSO Act, 2012 stands affirmed. Thus, this appeal fails and the instant appeal is dismissed.

37. The legal aid counsel for the appellant and the respondent no. 2 shall be entitled to their usual remuneration.

38. Let the LCR be sent back.

39. Let a free copy of this judgment and order be served to the appellant in the concerned jail where he is serving his sentence and also let it be explained to him by the Superintendent of District Jail/ Jailor that in the event he feels aggrieved by this judgment, he can avail legal remedy of filing Petition for Special Leave to Appeal before the Supreme Court of India.

JUDGE.

JUDGE.

Comparing Assistant