

**HIGH COURT OF TRIPURA
AGARTALA
CRL.A(J) NO.36 OF 2025**

Sri Nitesh Nath
Vs.
The State of Tripura.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Present:

For the Petitioner(s) : Mr. P. Roy Barman, Sr. Advocate.
Mr. S. Bhattacharjee, Advocate.
Mr. K. Nath, Advocate.
Mr. A. Debbarma, Advocate.
Mr. D. Paul, Advocate.
Mr. S.C. Majumder, Advocate.
Mr. S. Debbarma, Advocate.

For the Respondent(s) : Mr. R. Datta, P.P.
Mr. R. Saha, Addl. P.P.

22.05.2025

Order

The present criminal appeal has been filed under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), corresponding to Section 374(2) of the Code of Criminal Procedure, 1973, challenging the Judgment dated 09.04.2025 passed by the learned Special Judge (POCSO), North Tripura, Dharmanagar, in Case No. Special (POCSO) 09 of 2024. By the said judgment, the learned Court below convicted the appellant under Section 354 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences (POCSO) Act, 2012, sentencing him to undergo Rigorous Imprisonment (RI) for 4 (four) years and to pay a fine of Rs.20,000/- (Rupees Twenty Thousand) only. In default of payment of fine, the appellant was directed to undergo further imprisonment for 6 (six) months. It was further ordered that both sentences of imprisonment shall run concurrently.

2. The brief facts of the case, as per the prosecution, are as follows:- The case arises under the POCSO Act, 2012. As per the written ejahar dated 02.03.2024, lodged by the informant, who is the mother of the victim girl (*name withheld*), aged about 14 years and a student of Class VIII at Huplongcherra Tea H.S. School, the incident occurred on 01.03.2024 at around 9:00 AM. In the absence of the informant, Rupali Nath, and her husband, Amulya Nath, their neighbour, Nitesh Nath, aged about 60 years, son of late Harendra Nath, entered their house and asked the victim for a glass of water. When the victim brought the water and gave it to him, he drank it and, while returning the glass, touched her cheek and breast. Out of fear, the girl raised a hue and cry and immediately rushed to her mother, who was working at a brick and stone chips site, and informed her of the incident. It was further mentioned in the complaint that the matter was also brought to the notice of the local Panchayat Pradhan. Subsequently, on 02.03.2024, the ejahar was lodged and registered as Dharmanagar Women P.S. Case No. 05 of 2024.

3. Upon registration of the case, investigation commenced. After completion of the investigation, the Investigating Officer (PW-8) submitted a charge sheet against the appellant under Sections 354/448 of IPC and Section 8 of the POCSO Act, 2012.

4. The learned Court thereafter framed charges under Sections 354/448 of IPC and Section 8 of the POCSO Act, 2012. The charges were read over and explained to the appellant, to which he pleaded not guilty and claimed to be tried.

5. The trial commenced, and during the course of trial, the prosecution examined as many as 8 (eight) witnesses and exhibited relevant documents. All witnesses were duly examined and cross-examined. The appellant was also examined under Section 313 of the Cr.P.C., during which he denied the allegations and claimed the case to be false.

6. After hearing both sides and evaluating the evidence on record, the learned Special Judge (POCSO), North Tripura, Dharmanagar, convicted the appellant as mentioned above.

7. Being aggrieved and dissatisfied with the impugned judgment dated 09.04.2025, the appellant has preferred the present appeal seeking to set aside and quash the conviction and sentence, and to suspend the operation of the said judgment.

8. Heard Mr. S. Bhattacharjee, learned counsel appearing for the appellant, and Mr. R. Saha, learned Additional Public Prosecutor appearing for the respondents.

9. Mr. Bhattacharjee submitted that a civil dispute regarding the construction of a house on disputed land between the

parties led to this false criminal complaint. He argued that the appellant, who is approximately 65 years old, has been falsely implicated due to ongoing animosity. He urged the Court to take a lenient view considering the appellant's age.

10. On the other hand, the learned Additional Public Prosecutor strongly opposed the submissions made by the learned counsel for the appellant and contended that the impugned Judgment and Conviction dated 09.04.2025 is just, proper, and based on evidence, and therefore needs no interference.

11. Heard both sides and perused the evidence on record.

12. In light of the submissions made by the learned counsel for the appellant, and taking into consideration the age of the appellant, this Court is inclined to take a lenient view in the matter. Accordingly, the sentence of Rigorous Imprisonment awarded to the appellant is modified from 4(four) years to 3(three) years. However, all other aspects of the impugned Judgment, including the conviction under the relevant provisions and imposition of fine, shall remain unaltered.

13. With the above observations and modifications, the present appeal stands partly allowed to the extent indicated above.

14. As a consequence, any interim stay granted earlier stands vacated. All pending applications, if any, also stand disposed of.

JUDGE

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SUHANJIT SINGHA
Date: 2025.05.27
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