

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. A(J) 83 of 2025

Shri David Reang

son of Surendra Reang

Resident of Helenpur,

P.O. & P.S. Kanchanpur, District North Tripura

.....Appellant(s)

Versus

The State of Tripura

.....Respondent(s)

For the Appellant(s) : Mr. Sayantan Talapatra, Legal Aid Counsel

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

Date of hearing & delivery
of Judgment & order : 11.12.2025

Whether fit for reporting : No

**HON'BLE JUSTICE DR. T. AMARNATH GOUD
JUDGMENT & ORDER(ORAL)**

[1] Heard Mr. S. Talapatra, learned Legal Aid Counsel appearing on behalf of the appellant. Also heard Mr. Rajib Saha, learned Addl. PP appearing for the State-respondent.

[2] This present appeal is filed under section 374 of the Criminal Procedure Code 1973 against the order of conviction and sentence passed by the learned Special Judge (POCSO) North Tripura, Dharmanagar in case No. Special (POCSO) 01/2024 vide judgment dated 27.09.2024.

[3] The prosecution story as enumerated before the learned trial Court in brief is that the informant (mother of a victim) lodged an FIR with Kanchanpur PS on 05-12-2023 to the effect that she along with her husband on

01-12-2023 left their home situated at Helenpur, Kanchanpur for work leaving their minor daughter aged 15 years in the house along with her grand mother. On that date, the other victim girl aged around 15 years came to the house of the informant to stay along with the first victim girl. On the intervening night of 01-12-2023 and 02-12-2023 at about 12'o clock in the night accused David Reang, appellant herein came to the house of the informant and forcefully entered into the house. Thereafter he grabbed both the minor victim girls and torn their clothes and also touched their private parts. During that time, the grand mother of the first victim girl tried to save the victims but the accused threatened her with dire consequences. The victim girls finding no other alternatives screamed for help and hearing that the neighbouring people came to the house of the informant but in the mean time the accused managed to fled away from that place and while leaving he threatened both the victim girls and their grandmother with dire consequence if they disclose the incident to anyone.

[4] On receipt of the ejahar, the Officer-in-charge of Kanchanpur PS registered Kanchanpur PS case no. 51 of 2023 and endorsed the case to an SI, for investigation. The IO completed the investigation and submitted charge sheet against the accused under section 448/354(B) and 506 of the IPC and under section 8 of the POCSO Act. The charge sheet was filed before the learned trial and thereafter, both the sides were heard and charge under Section 448/354B/506 of the IPC and under Section 8 of the POCSO Act was framed against the accused and it was read over and explained to him to which, he pleaded not guilty and claimed to be tried. The prosecution to bring home the charge adduced as many as eight witnesses before the learned trial Court and after closure of the prosecution evidence, the accused was examined under Section 313 of Cr.PC wherein, he stated that the prosecution case is false and declined to adduce any witness from his side.

[5] Learned trial Court below upon hearing both the sides and on perusal of the material evidence on record, has decided the case by its judgment and order dated 27.09.2024 passed in Special (POCSO) 01 of 2024 in the following manner:

“ , O R D E R

27. In the result, the prosecution has established this case beyond all reasonable doubt against the accused David Reang under section 448/354 of the IPC and section 8 of the POCSO Act.

Accordingly, the accused is convicted under section 448/354 of the IPC and section 8 of the POCSO Act.

At the same time the prosecution has failed to prove this case against the accused under section 506 of the Indian Penal Code

28. I have heard the convict on the question of sentence and he prayed for mercy and also claimed himself as innocent.

I have also considered on the quantum of sentence appropriate in this case. As evident from the discussion in the preceding paragraphs the convict with intent and knowledge committed the incident and the victim girls in this case are minor girls and during commission of the offence their parents were also not present in the house. Further the convict dared to commit the incident in presence of the grandmother of the first victim girl.

This court has also taken into consideration that such type of incident involving sexual assault on the minor girls are on the rise and such offence cannot be seen with lenient view.

Therefore, this court is of the opinion that the convict is required to be sentenced to maximum term of imprisonment with fine for the three offence under section 448/354 of the IPC and section 8 of the POCSO Act.

29. Accordingly, the convict is sentenced to suffer rigorous imprisonment for a term of one year along with a fine of Rs.1,000/- for the commission of offence under section 448 of the Indian Penal Code and in default of payment of fine the convict shall suffer imprisonment for a period of two months.

The convict is also sentenced to suffer rigorous imprisonment for a term of five years along with a fine of Rs.1,000/- for the commission of offence under section 354 of the Indian Penal Code and in default of payment of fine the convict shall suffer imprisonment for a period of two months.

The convict is further sentenced to suffer rigorous imprisonment for a term of five years along with a fine of Rs.1,000/- for the commission of offence under section 8 of the POCSO Act and in default of payment of fine the convict shall suffer imprisonment for a period of two months.

30. All the sentences of imprisonment shall run concurrently.

The period of detention undergone by the convict during the investigation and trial of this case shall be set off from the total period of imprisonment.”

[6] Aggrieved by the impugned order dated 27.09.2024 passed by the learned trial Court in case No. Special (POCSO) 01 of 2024, the appellant has preferred the instant appeal seeking the following reliefs:

- i. Admit this appeal.
 - ii. Call for the Lower Court's record of Case No. SPECIAL (POCSO) 01/2024 passed by the Ld. Special judge POCSO, North Tripura, Dharmanagar.
 - iii. Issue notice upon the respondent.
- AND
- iv. After hearing the parties be pleased enough to set aside the impugned judgment of conviction and sentence dated 27.09.2024 passed by Ld. Special judge POCSO, North Tripura, Dharmanagar in Case No. SPECIAL (POCSO) 01/2024 or to pass any other order/orders as Your Lordship may deem fit and proper.....”

[7] When the case is called, Mr. S. Talapatra, learned Legal Aid Counsel appears for the appellant. Mr. R. Saha, learned Addl. P.P. appears for the respondent State.

[8] It is seen from record more particularly, from the impugned order dated 27.09.2024 passed by the learned Court below in case No. Special (POCSO) 01 of 2024 that PW 2 & PW 3 both are the victim girls in the present case. PW 2, who is the daughter of the informant deposed that the incident took place in the night time after a month from the last Christmas and during that time, her parents went to the jungle to collect woods and she along with her sister, the second victim girl and her grand mother were in the house. She deposed that during that time the accused David Reang came to her house and knocked on the door and she opened the door and the accused asked about the whereabouts of her parents and she told him that they went out to collect woods. She also deposed that the accused told her that he came to her house to take revenge regarding an early incident that happened between him and the father of the victim girl. She further deposed that the accused asked her to serve him tea and he also told her that he will spent the night in her house. She also deposed that the accused torn her clothes and kicked her and also twisted her hand. She also deposed that the accused touched her breast and other parts of her body and he remained in her house till the early morning and then he left.

PW 2 also deposed that her mother and her sister, the second victim girl went to the police station and lodged a case regarding the incident.

[9] It is also observed from the impugned judgment and order dated 27.09.2024 passed by the learned Court below in case No. Special (POCSO) 01 of 2024, PW 3, the second victim girl deposed that during the time of alleged incident, she was in the house of the first victim girl and the parents of the first victim girl were not present in the house. She deposed that the accused came there and broke the door of the house.

[10] From statements of the victim girls i.e. PW 2 & PW 3 before the learned trial Court, it is noticed that PW 2 i.e. the first victim deposed that the accused David Reang came to her house and knocked on the door and she opened the door whereas, PW 3 i.e. the second victim deposed that during the time of alleged incident, she was in the house of the first victim girl and the accused came there and broke the door of the house. It is observed that at the time of alleged incident both the victims were together in a house but, one deposed that the accused knocked on the door and she opened the door and the other deposed that the accused broke the door of the house. So, there has been clear discrepancy between the statements of both the victims.

[11] It is also observed that as per Section 8 of the POCSO Act, whoever, commits sexual assault, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to five years, and shall also be liable to fine. In the case in hand, as it is submitted at the Bar, the accused has undergone custody for more than one year.

[12] In view of the above, since there is clear discrepancy between the statements of both the victims and the allegations against the accused under the POCSO Act have not also been proved properly by the prosecution, this Court considering the period of detention already undergone by the appellant, feels that a lenient view can be taken in respect of the appellant and the sentence passed by the learned Court below on 27.09.2024 convicting the accused under

Section 448/354 of the IPC and Section 8 of the POCSO Act be set aside and accordingly, the same is ordered.

[13] In view of the above, the present appeal is allowed and the same is hereby disposed of. Thus, the convict-appellant shall be released if not required in any other matters.

[14] As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

DR. T. AMARNATH GOUD, J

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