

**HIGH COURT OF TRIPURA**

**\_A\_G\_A\_R\_T\_A\_L\_A\_**

**Crl. A(J) No.85 of 2025**

Sri Jhantu Deb @ Jantu, son of late Aswini Deb, of North Pabiacherra, P.S. Kumarghat,  
Unakoti District, Tripura.

***.....Appellant***

**\_V\_E\_R\_S\_U\_S\_**

The State of Tripura

***.....Respondent***

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|-------------------|---|-------------------------------|
| For Petitioner(s) | : | Ms. R. Purkayastha, Advocate. |
| For Respondent(s) | : | Mr. R. Datta, P.P.            |

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|-----------------------------------------|---|------------|
| Date of hearing and<br>Judgment & order | : | 12.12.2025 |
| Whether fit for reporting               | : | <b>NO</b>  |

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**HON'BLE JUSTICE DR. T. AMARNATH GOUD**

**\_F\_I\_N\_A\_L\_O\_R\_D\_E\_R\_**

Heard.

[2] The present appeal has been filed under Section-374 of Cr. P.C. against the impugned judgment and order of conviction and sentence dated 19.06.2025 passed by the learned Special Judge (POCSO), Unakoti, Kailashahari in case No. Special (POCSO) 04 of 2021 whereby and whereunder, the appellant has been sentenced under Sections-08 of the POCSO Act and to suffer SI for term of 3 years and with a fine of Rs.3,000/- and in default of payment of fine to suffer SI for further 3 months.

[3] The fact in brief are that On 02.09.2020 at about 1300 hours, when the said first victim was sleeping in the room of the said COVID Care Center, then, at that time, the FIR named accused person entered into her room and sexually harassed her by physical contact and advances involving unwelcome and explicit sexual overtures; subsequently on 03.09.2020, the said accused person again entered into the room of second victim who was also admitted at the COVID Care Center, Kumarghat and thereafter, opened the chain of her frock and touched various parts of her body and also sexually harassed her. After hearing the arguments from both sides learned Court below by the impugned Judgment and order of conviction and sentence dated 19.06.2025 passed by the learned Special (POCSO) Judge (Sri Amrendra Kumar Singh), Unakoti, Kailashahar in case No. Special (POCSO) 04 of 2021 whereby and where under the appellant has been sentenced under Section-8 of the POCSO Act and has to suffer Simple

imprisonment for term of 3 (three) years with a fine of Rs.3000/- and in default of payment of fine to suffer simple imprisonment for further 3 months. The impugned order of conviction and sentence passed by the learned Court below is illegal, perverse and not tenable in the eye of law and liable to be set aside.

[4] Having heard the learned counsel appearing for the parties, the learned Court below has observed as under:

“176. In the result, accused namely Sri Jhantu Deb @ Jantu is found guilty and convicted under section 354(A)(1)(i) of the IPC or alternatively, under Section 8 of the POCSO Act. He shall be taken into custody and he will be heard, on question of sentence, in due course of time of the day.

177. Surety of the bail bond, except the bail bond furnished under section 437(A) Cr.PC, stands discharged.

178. The seized original Birth Certificates of the victims be returned, after expiry of the appeal period to the victim or her parents, after taking proper receipt and also retain a copy thereof, in the record or in the mean time, if any appeal is preferred, then, as per the direction of the Hon'ble Appellate Court.

179. The Court Inspector, Kailashahar Police Court, is hereby directed to destroy all other seized alamats, if any, after expiry of the appeal period or in the mean time, if any appeal is preferred, then, as per the direction of the Hon'ble Appellate Court.”

[5] Being highly aggrieved by and dissatisfied with the same, the present appeal has been preferred by the appellant.

[6] It is the case of the appellant that there is discrepancy and inconsistency regarding the statement of the complainant, and for no reason the accused person is sentenced to jail under Section-8 of the POCSO Act for a period of 3 (three) years.

[7] In this regard, Ms. R. Purukayastha, learned counsel appearing for the appellant, has drawn the attention of this Court to the complaint made, and since there is no specific allegation against the accused person for outraging modesty or committing any assault attracting Section-8 of the Act, has prayed to acquit the accused person.

[8] After hearing learned counsel appearing for the appellant, the LCRs are perused by this Court.

[9] The statement of the victim girl made under Section-164 of the Cr.P.C. is as follows:-

***"Few days back, I tested positive for Corid 19. I was taken to Kumarghat quarantine institute. I stayed there for by treatment purpose. My sister-in-law and I shared a room there. On 03/09/2020, at about 11:30 am, the Sweeper of our room Jhantu Day came to our room and pressed by belly and asked if I fell pain. I said no. Next day at the same time he came and pressed my back and asked me if I had pain in my back. I said no. He then replied that I was quarantined for no reason. I also heard that he opened the Chain of the dress of another girl in the quarantine centre!"***

***The Statement is recorded in Compliance with all legal formalities and in accordance with the provision of Sec 164(5) Cr.P.C and is readover and explained to the victim in Bengali and finding it to have been recorded as per he say she put her signature on the statement.***

***The Statement recorded above bears a true and complete version of what the victim have depose before the Court today. "***

[10] It is seen from the above-quoted deposition that the victim girl deposed that on 03.09.2020 the accused person once entered into the ward room and touched the belly of the victim girl and verified her health condition, and on the next day again he came, touched her back, and verified her health; and when she replied that there was no pain, he indicated that she was unnecessarily quarantined and she could be released. This is the only allegation made against the accused person by the complainant-victim girl.

[11] This Court recapitulates the period of COVID, the manner in which the patients were kept in quarantine, and that no one dared to approach the patients who tested positive for COVID, and such allegation, even if said to have been correct, does not attract Section-8 of the Act.

[12] 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 extended 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 nine months.

[13] In view of the above, since there is clear discrepancy in the statement of the victim 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 convicting the accused under Section-8 of the POCSO Act, be set aside and accordingly, the same is ordered.

[14] In view of the above, the present appeal is allowed and the same is hereby disposed of. Consequently, the appellant shall be released forthwith, of not required in any other matter.

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

**DR.T. AMARNATH GOUD, J**

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*A. Ghosh*



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