

HIGH COURT OF TRIPURA
AGARTALA

Crl. A.(J) No. 24/2025

Sri Chandan Mali

son of late Sukumar Mali, resident of Chotosurma
(Sadhanpara), P.S. Kamalpur, District- Dhalai, Tripura

----Appellant (s)

Versus

The State of Tripura

represented by the Secretary, Home Department,
Government of Tripura

----Respondent(s)

For the Appellant(s)	:	Mr. S. Lodh, Adv.
For the Respondent(s)	:	Mr. Raju Datta, PP
Date of hearing & delivery of Judgment & Order	:	01.04.2026
Whether fit for reporting	:	No

BEFORE

HON'BLE JUSTICE DR. T. AMARNATH GOUD

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER (ORAL)

(Dr. T. Amarnath Goud, J)

Heard Mr. S. Lodh, learned counsel appearing for the appellant.

Also heard Mr. R. Datta, learned P.P. State.

2. The appellant, by means of filing this present appeal, under Section 374(2) of Cr.P.C, has challenged the judgment and order of conviction dated 05.03.2025 and sentence dated 06.03.2025 passed by the learned Special Judge (POCSO), Dhalai Judicial District, Kamalpur, in connection with case No. Special (POCSO) 03 of 2022, whereby the learned Special Judge (POCSO) convicted the appellant for an offence punishable under Section 5(m) of POCSO Act read with Section 6 of POCSO Act and sentencing the appellant to suffer rigorous imprisonment for 20(twenty) years and to pay a fine of Rs.10,000/- in default, the appellant shall undergo S.I for 6(six) months

and also convicted the appellant under Section 506 Para-1 of the IPC and to pay a fine of Rs.1,000/-, in default to suffer S.I. for 2(two) months.

3. The factual background of the prosecution case is that on 07.09.2022, at about 0800 hours, the accused, Chandan Mali, unlawfully entered the residence of the complainant, Smt. Lalita Marar of Chutosurma, and forcibly committed rape her minor daughter (name withheld), taking advantage of her loneliness. When the minor victim started crying, the accused attempted to kill her by strangulating her neck. Upon hearing the hue and cry, the complainant reached her house, and upon seeing her, the accused fled away from the place of occurrence.

4. On the basis of the complaint, a case was registered as Kamalpur P.S Case No.2022 KMP 050, dated 07.09.2022, u/s 447/376AB/323/307 IPC and Section 6 of POCSO Act, 2022 Act against the convict and the same was endorsed to I.O., for investigation. On completion of the investigation, the I.O. submitted charge-sheet under Sections 447/376(A)(B)/506 IPC and Section 6 of POCSO Act, 2012 against the accused, Chandan Mali and cognizance was also taken under Sections 342/376AB/506 of IPC and Section 6 of the POCSO Act.

5. Learned Special Judge framed the charge against the accused person under Sections 447/376AB/506 of IPC and under Section 5(m) of POCSO Act read with Section 6 of the POCSO Act.

6. The prosecution adduced as many as 24(twenty four) witnesses to prove the charge and exhibited some important documents and after closure of the prosecution evidence, the accused was examined under Section 313(1)(b)

of Cr.P.C. to which he denied all the incriminating materials and declined to adduce any evidence in support of him.

7. After hearing of both the parties learned Court below convicted the appellant as stated here-in-above.

8. Being aggrieved by and dissatisfied with the impugned judgment and order of conviction and sentence, the convict-appellant has preferred this appeal seeking to set aside the said the impugned judgment and order of conviction dated 05.03.2025 and sentence dated 06.03.2025.

9. Mr. Lodh, learned counsel submits that learned trial Court convicted the appellant on the basis of the surmises and conjectures and the findings of the learned trial Court to the effect that the appellant has committed offences punishable under Section 5(m) of the POCSO Act read with Section 6 of POCSO Act, 2012 and Section 506 Para-1 of the IPC are liable to be interfered with by this Court. Mr. Lodh, learned counsel, raises a pertinent question regarding the use of a single interpreter, Subhadra Marar, by the police during critical stages of the legal process, i.e. while recording the statement under Section 161 of the Cr.P.C., the statement recorded under Section 164 of the Cr.P.C., and the deposition recorded before the learned trial court. In light of the above submissions, Mr. Lodh prays that this Hon'ble Court exercise its appellate powers to reappraise the evidence, set aside the conviction, and acquit the appellant.

10. Mr. Lodh, learned counsel relies on a decision of the Hon'ble Supreme Court in the case of **State of Rajasthan vs. Darshan Singh @**

Darshan Lal, (2012) 5 SCC 789, wherein at paragraph No.29, it was observed as under:

29. To sum up, a deaf and dumb person is a competent witness. If in the opinion of the Court, oath can be administered to him/her, it should be so done. Such a witness, if able to read and write, it is desirable to record his statement giving him questions in writing and seeking answers in writing. In case the witness is not able to read and write, his statement can be recorded in sign language with the aid of interpreter, if found necessary. In case the interpreter is provided, he should be a person of the same surrounding but should not have any interest in the case and he should be administered oath.

11. On the other hand, the learned P.P. urged this Court to uphold the Judgment of conviction and sentence by stating that the testimony of the victim prosecutrix is unshaken and the same is corroborated by the statement of PW-1, the informant, mother of the victim, her father. Minor verbal discrepancies cannot overrule the veracity of the incident and the learned trial Court has rightly passed the order of conviction. Mr. Datta, learned PP referring to the statement of the victim recorded under Section 164(5) of the Cr.P.C. where the victim stated that in the morning of last Wednesday, while she was sitting along at home, at that time accused came to her house. He then closed her mouth and forced her to lie down. Thereafter, the accused removed her clothes and inserted his penis into her vagina and at that time the accused was caught hold of her neck and told her that he would kill and on hearing her cry, her mother came and seeing her mother, the accused fled away. Similar statement was made before the learned trial court by the victim as PW-4. This statement was also corroborated by her mother and father. The presence of the accused at that time of incident was also corroborated by PW-9. Mr. Datta, learned P.P. also submits that PWs-14 & 17 are also supported the prosecution's case. Accordingly, Mr. Datta, learned PP submits that the learned trial court has rightly convicted the appellant and he prayed for dismissal of the appeal.

12. In support of this submission, Mr. Datta, learned P.P. relies on a decision of the Hon'ble Supreme Court in the case of **Deepak Kumar Sahu vs. State of Chattisgarh, 2025 SCC OnLine SC 1610**, wherein at paragraph No.5.5.3, it was observed as under:

5.5.3. The medical evidence may not be available in which circumstance, solitary testimony of the prosecutrix could be sufficient to base the conviction.

"The conviction can be sustained on the sole testimony of the prosecutrix, if it inspires confidence. The conviction can be based solely on the solitary evidence of the prosecutrix and no corroboration be required unless there are compelling reasons which necessitate the courts to insist for corroboration of her statement. Corroboration of the testimony of the prosecutrix is not a requirement of law; but a guidance of prudence under the given facts and circumstances. Minor contractions or small discrepancies should not be a ground for throwing the evidence of the prosecutrix."

13. Having appreciated the submissions made by the learned counsel appearing for the parties and scrutinized the records, it would be apposite to revisit the vital evidences in a purposeful manner.

14. The complainant, the mother of victim, PW-1, stated in the trial that on 07.09.2022 at about 8 a.m., she was getting ready to leave her house to go to work and she called her one colleague, Sarathi Marar for work. She stated that the accused, Chandan Mali came to her house to perform carpentry work. After some time, the complainant informed Sarathi Marar that there was no one at her house available to assist the carpenter. Consequently, she advised Sarathi Marar to proceed with her work without delay. Suddenly, she heard some noise from her house and saw the accused Chandan Mali was lying upon her daughter when her daughter was crying and her pant was lying on the floor. Then she hit on the back of Chandan Mali by an iron rod and started shouting. Her husband caught Chandan Mali but somehow he managed to flee away. She also stated that daughter was examined by the Doctor and she put her signature on the consent form. She

is the seizure witness of birth certificate of her daughter, the light yellow colour bed sheet and black colour palazzo. She also stated that police brought her daughter to Kamalpur Court wherein her daughter gave her statement before the learned Magistrate interpreted by Subhadra Marar (PW-3).

15. PW-2, Sri Barun Marar, the father of the victim stated that on 07.09.2022 at about 8.00 am in the morning when he was taking his meal in his house, suddenly he heard the sound of shouting of her daughter. He rushed to the spot and saw that the accused, Chandan Mali was lying upon his daughter. He pulled him by catching his hand but forcefully the accused pushed him and fled away.

16. PW-3, Smt. Subhadra Marar, the interpreter, stated that she is the nieghbour of the complainant. The victim is the daughter of complainant and aged about 7 years. She identified the accused Chandan Mali in the court. She interpreted the statement of the complainant in Bengali recorded by one SI, Pompi Nath and the learned Magistrate, Kamalpur.

17. PW-4 is the victim girl, who stated in the trial that when she was in the house, Chandan Mali came, pushed her and put off her pant and the accused also put off his pant. Thereafter, the accused inserted his penis into her urinary organ. She also stated that the accused gagged her mouth when she started crying and the accused told her that he would kill her if she cry. Suddenly her mother and father came to the room. Thereafter, her father pulled Chandan Mali outside the house. She was taken to hospital and to the court where her statement was recorded.

18. PW-5, Smt. Anita Marar is the relative of the complainant. She identified the accused in the court. She stated in the trial that upon hearing the shouting of her parents-in-law, she rushed to their house and found that they had apprehended the accused, Chandan Mali. However, the accused forcibly pushed them aside and fled from the place. At that the victim was crying.

19. PW-6, Smt. Rajmoti Marar is also one of the relative of the complainant who also stated in the trial that on 10 month ago at about 8/8.30 am in the morning she heard hue and cry in the house of the complainant. Then she rushed there and found that local people were chased the accused, Chandan Mali.

20. PW-9, Sri Rabi Namasundra, testified in the trial that the accused, Chandan Mali, used to work with him as a carpenter. He stated that he had a contract to carry out carpentry work at the house of the victim's father. Accordingly, he and the accused went to the house to perform the work. However, on the fourth day, he did not go to the house in the morning. When he was on his way to the complainant's house at around 8:30 a.m., some local people informed him that the accused, Chandan Mali, had committed rape upon the victim.

21. PW-14, Dr. Tirtha Rani Murasing, stated in the trial that on 07.09.2022, she was posted at BSM Hospital, Kamalpur as Medical Officer. She examined the victim in connection with Kamalpur P.S. Case No.50 of 2022 and started examination. After examination, she found abrasion over the medial aspects right labia minora approx 0.8 X 0.5 cm², abrasion over

the medial aspects left labia minora approx 0.7 X 0.4 cm² and she also found vaginal tenderness and redness. He also stated that those are signs of recent forceful vaginal penetration.

22. PW-16, WSI Pompei Nath, the investigating officer stated in the trial that she examined complainant and recorded her statement under Section 161 of the Cr.P.C. She seized light yellow colour bed sheet, one black colour plazzo pant and one original copy of birth certificate of the victim by preparing a seizure list. She also stated that the victim was taken to hospital for her medical treatment. She seized the biological exhibits of the victim by preparing a seizure list. She visited the place of occurrence, prepared the handsketch map with separate index. On the same day, she examined and recorded the statement of the victim (PW-4) and the interpreter (PW-3). On the next day, she arrested the accused and forwarded him to the court. After investigation, she filed the charge-sheet against the accused Chandan Mali under Sections 447/376AB/506 of IPC and Section 6 of the POCSO Act.

23. PW-17, Dr. Subhankar Nath, stated that he was posted as Deputy Director SFSL Narsinghar, West Tripura on 14.09.2022 who prepared the DNA profiling report. In the report, he opined that the semen stain detected in the exhibit-a (source of cloth pieces of one light yellow colour bed sheet (semen) originated from single source of exhibit-G (source: dried blood sample of A/P Sri Chandan Mali). He also opined that the blood stain detected in the exhibit –a (source: cloth pieces of one light yellow colour bed sheet (blood) originated from single source of exhibit-C (source: dried blood sample of victim).

24. This Court has given anxious consideration to the submissions of as advanced by Mr. Lodh, learned counsel appearing for the appellant as well the submission as advance by Mr. Datta, learned P.P. appearing for the State. On reappraisal of the entire evidence on record, this Court finds that the testimony of the victim is cogent, natural and consistent on material particulars regarding the manner in which the accused lured her and subjected her to sexual assault. Furthermore, her statement is supported and corroborated by the testimonies of her parents, who confirmed the circumstances, as well as by other prosecution witnesses (PWs-5,6 & 9) who saw the accused at the relevant place and time. The medical evidence further substantiates the victim's testimony. The medical examination revealed the injuries and physical signs consistent with recent forceful vaginal penetration. Further, the presence of spermatozoa on the light yellow-colored bed sheet, which was seized as evidence, further substantiates the fact that the accused committed penetrative sexual assault upon the victim. This forensic evidence provides a direct link between the accused and the assault, corroborating the victim's statement and the medical findings. The detection of spermatozoa on the bed sheet not only confirms the occurrence of sexual penetration but also strengthens the prosecution's case.

25. Therefore, this Court finds no perversity, illegally or infirmity in the impugned judgment and order of conviction and sentence as passed by the learned Special Judge (POCSO), Dhalai Judicial District, Kamalpur and the learned Special Judge (POCSO) has rightly passed the impugned judgment and order of conviction, convicted the appellant for an offence punishable under Section 5(m) of POCSO Act read with Section 6 of POCSO Act and

under Section 506 Para-1 of the IPC. Accordingly, no interference is warranted with the impugned judgment and order of conviction and sentence. The conviction and sentence are affirmed. Accordingly, the appeal stands dismissed.

Pending application(s), if any, also stands disposed of.

Send down the LCRs.

(S.DATTA PURKAYASTHA, J)

(DR.T. AMARNATH GOUD, J)



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