



Serial No.02
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.A.No.15/2024

Reserved on: **12.05.2026**

Pronouncement on: **20.05.2026**

Shri Dresster Kurbah

..... Appellant

Vs.

State of Meghalaya through Public Prosecutor Respondent

Coram:

Hon'ble Mrs. Justice Revati Mohite Dere, Chief Justice

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Appellant : Mr. H.L. Shangreiso, Sr.Adv with
Ms. M. Hajong, Adv
Mr. W. Khongsni, Adv

For the Respondent : Mr. R. Gurung, Addl.PP with
Mrs. S. Bhattacharjee, GA

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| i) | Whether approved for reporting in
Law journals etc.: | No |
| ii) | Whether approved for publication
in press: | Yes |

JUDGMENT: (per the Hon'ble, the Chief Justice)

By this appeal, the appellant has impugned the judgment and order dated 4th December, 2023, passed by the learned Special Judge (POCSO), District, East Khasi Hills, Shillong in Special (POCSO) Case No.8 of 2022, by which the



learned Special Judge (POCSO) was pleased to convict and sentence the appellant as under;

- for the offence punishable under Section 6 of the POCSO Act to undergo 20 years of rigorous imprisonment with fine of ₹10,000/-, in default of payment of fine to undergo further six months simple imprisonment;

- under Section 8 of the POCSO Act to suffer three years simple imprisonment with fine of ₹5000/-, in default of payment of fine to undergo further six months imprisonment.

- Both the sentences are directed to run concurrently.

2. A few facts as are necessary to decide the aforesaid appeal are as under:

3. PW2, mother of the survivor lodged an FIR on 2nd November, 2021 alleging therein, that when she took her daughter (survivor) aged 15 years to the hospital and upon inquiry, the survivor informed that the appellant had sexually assaulted her sometime in the month of June, 2021.



Accordingly, the Officer-in-charge, Mawlai Police Station, East Khasi Hills, Meghalaya, registered a case as against the appellant for the offences punishable under Sections 5(j)(ii)/6 of the POCSO Act. Pursuant thereto, the appellant was arrested on 2nd November, 2021. During the course of investigation, the police recorded the statements of the witnesses, including that of the survivor, both under Sections 161 and 164 CrPC. On completion of the investigation, chargesheet came to be filed in the Court of the learned Special Judge (POCSO), East Khasi Hills, Shillong.

4. The learned Special Judge (POCSO) framed charge against the appellant for various offences, both, under the POCSO Act as well as under the provisions of the IPC. The appellant pleaded not guilty to the said charge and claimed to be tried.

5. The prosecution in support of its case examined four witnesses i.e. – PW1-survivor, PW2-complainant and mother of the survivor, PW3-Dr. Evangeline Kharkongor who examined



the survivor and PW4-WPI Smti. Lavinia Kongwang, the Investigating Officer.

6. Thereafter, the trial court recorded the statement of the appellant under Section 313 CrPC. The appellant denied having committed any offence. He, however, admitted that he was in a love relationship with the survivor and that the act was consensual and, that he was ready to take care of the survivor and the unborn child. No defence witness was examined by the appellant in support of his defence.

7. The trial court vide judgment and order dated 4th December, 2023, convicted and sentenced the appellant as stated hereinabove. Hence, this appeal.

8. Mr. Shangreiso, learned Senior Counsel appearing for the appellant submitted that it was a case of consent i.e., consensual relationship between the appellant and the survivor, and that the same is evident from the evidence on record and as such, no offences as alleged under the POCSO Act are disclosed. He further submitted that the prosecution



had also failed to prove the birth certificate of the survivor i.e., the survivor was a minor at the relevant time.

9. Mr. Gurung, learned GA supported the judgment and order of conviction and sentence. He submitted that the prosecution had proved beyond reasonable doubt that the appellant had sexually assaulted the survivor aged 15 years and that the said evidence of the survivor was duly corroborated by PW2-survivor's mother and complainant and PW3, the medical officer, to whom the survivor had disclosed history of sexual assault.

10. Having heard learned counsel for the respective parties and having perused the evidence and documents on record, we are of the opinion that no interference is warranted in the impugned judgment and order of conviction and sentence passed by the trial court, for reasons to follow.

11. The prosecution examined the complainant and mother of the survivor as PW2. PW2 has deposed that she got the information of the incident of sexual assault on her daughter



after about two months of the incident when her daughter (survivor) did not get her menstrual cycle. She has stated that when she enquired from her daughter (survivor), she disclosed that the appellant has forcibly raped her in a jungle near their house. On learning of the incident, PW2 went to a medical store and bought a pregnancy test kit and on testing found the report positive i.e., her daughter was pregnant. PW2 thereafter, consulted a doctor alongwith the survivor aged 15 years, where the doctor was informed that the appellant had forcibly raped the survivor resulting in her pregnancy. PW2 has further deposed that thereafter, the appellant came to her house along with his father and brother-in-law and when she questioned the appellant, he admitted that the child inside the womb was his, however, he was unable to take care, as he already had a girlfriend. Accordingly, PW2 went and lodged an FIR as against the appellant with the Mawlai Police Station. The FIR is exhibited as PExhibit-3. PW2 also produced the original birth certificate of her daughter which is exhibited as



PExhibit-5. It further appears from the evidence of PW2 that the survivor delivered a male child on 8th August, 2022.

12. In the cross-examination, nothing material has been elicited to disbelieve her testimony. PW2 has stated that she did not know whether her daughter was in a relationship with the appellant or not; and whether the appellant was having a girlfriend or not. PW2 has denied the fact that the appellant has agreed to take care of her daughter and her child, when she asked him to do the same. She has further stated that it was a fact that the appellant had threatened her daughter not to disclose the incident to her parents.

13. PW1 is the survivor, who was a minor at the relevant time, having been born on 23rd March, 2006. Thus, at the relevant time, the survivor was 15 years of age. PW1 has deposed that she was constrained due to financial reasons to drop out of school following the incident and had delivered a child on 8th August, 2022. She has stated that she was studying in Class-IX at the relevant time and that she is



interested in continuing her education and has not received any compensation.

14. According to PW1, at the time of the incident she was staying in her village. She has stated that on 14th June, 2021, it was her eldest sister's birthday and that the appellant was invited, as he was related to the same clan as her father and was a resident of the same village. She further deposed that the appellant was helping in cooking of food and other related works and had asked her to come and meet him near one path situated near the house between 6 to 7 pm; that she went to meet him; that after spending some time at the roadside, she told the appellant that she wanted to leave as her parents would be searching for her; that the appellant asked her to stay back and demanded for a relationship, which she refused; that she told him that she was a minor aged 15 years and was going to school; that suddenly the appellant laid her on the ground and undressed himself and undressed her and had forcible sexual intercourse with her; that after the incident, the appellant wore his clothes; that she put on her clothes and



went home crying; and that the appellant told her that she should not disclose the incident to any person. PW1 has stated that she returned home and that the appellant followed her, however, she did not disclose the incident to anyone.

15. PW1 in her evidence has further deposed that when she missed her menstrual cycle, her mother bought her a pregnancy kit, which confirmed that she was pregnant; that she disclosed the incident to her mother pursuant to which, the appellant and his father and brother-in-law visited their house; that the appellant told them that the incident had happened mistakenly and that he was not in love with her nor could he take care of her. The appellant is further stated to have disclosed that he has a wife and was in a relationship for about one and a half year. Based on the same, PW1's mother i.e., PW2 lodged an FIR as against the appellant with the Mawlai Police Station. The delay has also been explained by PW1 in her examination-in-chief inasmuch as, she has stated that the delay in filing the complaint was due to the appellant being related to her father's clan and that his wife was also a



close relative. PW1 has also identified her statement recorded under Section 164 CrPC.

16. In her cross-examination, the material evidence that has come against the appellant has not been refuted or denied by the appellant. PW1 has categorically denied that if she was a major, she would have agreed to have a relationship with the appellant. She has also stated that although there was a proposal from the appellant's side, it was broken off prior to the incident.

17. Thus, from the evidence of PW1 (survivor) and the mother of the prosecutrix, it is evident that PW1 was sexually assaulted by the appellant. The evidence on record shows that there is no challenge to the date of birth of the prosecutrix i.e., PW1 and as such, the prosecution has proved that the survivor, was a minor at the relevant time, aged 15 years.

18. The aforesaid evidence of PW1 and PW2 is duly corroborated by the Medical Officer, who was examined by the prosecution as PW3.



19. PW3 in her evidence has stated as under:

“Thereafter, I enquired from the victim girl about the incident and she narrated the incident to me and I recorded the brief history of incident. According to the survivor, on 14.06.2021, the accused Dress Kurbah asked her to meet her at around 06:00 pm near to of forest situated nearby her house. Accordingly, she went and talked with him by sitting together. When she was about to leave that place, the accused asked to her for sexual relationship but she refused first. Then he forcefully held her and undressed her and inserted his private part in her vagina. After finishing the act, he allowed her to go home and told her not to inform to family members about the incident.”

20. PW3 has further deposed that details regarding sexual violence i.e., there was penetration by the penis and that ejaculation had occurred inside the vagina only; that the accused had touched and fondled her breast during commission of act; and that the incident was four and half months back. PW3 has further deposed that when she examined PW1, she opined on the basis of the history and clinical findings that the victim was 4 to 5 months pregnant, at the time of examination. In the cross-examination, again nothing is elicited to contradict what was disclosed by PW3.



21. Considering the aforesaid evidence of PW1 and PW2, which is duly corroborated by the medical evidence of PW3, we find that the prosecution has proved its case beyond reasonable doubt as against the appellant and as such, no interference is warranted in the impugned judgment and order of conviction and sentence awarded by the trial court.

22. The appeal is accordingly dismissed.

23. The DLSA, East Khasi Hills District and the DCPO, East Khasi Hills District to verify whether the survivor has received any benefit or compensation either from the State or Central Government; and whether she intends to pursue her education/any vocational training etc. If not, the DLSA, East Khasi Hills District and the DCPO, East Khasi Hills District to ensure that the benefits under the POCSO, as may be applicable to the survivor and her child, are made available to them at the earliest.



24. A report to this effect be submitted to this Court within eight weeks from the date of receipt of this order.

(W. Diengdoh)
Judge

(Revati Mohite Dere)
Chief Justice

Meghalaya
20.05.2026
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