



Serial No. 01
Supplementary
List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.A. No. 53 of 2024

Date of CAV: 04.06.2026

Date of pronouncement: 10.06.2026

Ezazul Ali

...Appellant

- versus -

1. State of Meghalaya represented by the Secretary, Home (Police) Department, Government of Meghalaya, Shillong.
2. Investigating Officer (I.O.), Women P.S. Tura, West Garo Hills, Meghalaya.

...Respondents

Coram:

Hon'ble Mrs. Justice Revati Mohite Dere, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Appellant : Mr S.K. Hassan, Adv.

For the Respondent : Mr H. Kharmih, Addl PP

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| i) | Whether approved for reporting in Law journals etc.: | Yes |
| 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 25.07.2024 passed by the Special Judge (POCSO), West Garo Hills, Tura in Special POCSO Case No. 30



of 2019, convicting him for the offence punishable under Section 5(m) read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter, for the sake of brevity referred to as the 'POCSO Act') and sentencing him to undergo rigorous imprisonment for a period of 10 years with fine of ₹ 30, 000/-, in default of payment of fine to further undergo simple imprisonment of 6 months.

The trial court also awarded compensation to the victim under the POCSO Act read with POCSO Rules and Section 357A Cr.P.C. The compensation awarded is ₹ 3 lakhs to be paid to the Child survivor (PW3) by the Meghalaya State Legal Services Authority through the District Legal Services Authority. Interim compensation, if paid, was to be adjusted against the final compensation.

2. **The prosecution case in brief is as under:**

According to the complainant (PW1), the incident took place on 01.04.2019 at around 2 p.m. when his daughter (PW3) aged about 12 years went to the water pump machine of the appellant for bathing. It is further the complainant's case, that



the appellant called her to his house, asked her to look for an iron rod and during the search of the iron rod, inserted his finger in her private part, pursuant to which his daughter started screaming. It is further alleged that the appellant gagged her mouth, resulting in his daughter falling unconscious. After regaining consciousness, PW3 is stated to have returned home and disclosed the incident to her mother (PW2). Pursuant thereto, the complainant (PW1 – father of the survivor) lodged an FIR as against the appellant alleging offences punishable under the POCSO Act. During the course of investigation, the survivor was sent for her medical examination, statements of witnesses were recorded under Sections 161 and 164 Cr.P.C. and after investigation, charge-sheet was filed against the appellant in the Court of the learned Special Judge, POCSO.

3. Charge came to be framed against the appellant to which he pleaded not guilty and claimed to be tried.

4. The prosecution in support of its case examined the following eight witnesses;

PW1 – Father of the prosecutrix (complainant).



PW2 – Mother of the prosecutrix.

PW3 – prosecutrix.

PW4 – Dr. Sima Celina Sangma, who conducted the medical examination of the survivor.

PW5 – Shri Pedison N. Marak, Dresser at Tura Civil Hospital.

PW6 – Dr Zareen Marak, Senior Medical & Health Officer attached to Williamnagar Civil Hospital.

PW7 – Inspector G.T.Sangma, O.C. attached to Tura Women P.S.

PW8 – WPSI Salmay R. Marak, Investigating Officer.

5. The defence of the appellant was of denial and false implication. The appellant did not adduce any evidence in support of his defence.

6. After hearing the learned counsel for the respective parties, the learned Judge convicted and sentenced the appellant as stated aforesaid in paragraph 1 of this judgment.

7. Mr S.K. Hassan, learned counsel appearing for the appellant submitted that there were material discrepancies in the allegations made by the complainant (PW1) in the FIR and



in his evidence before the Court. He submitted that the appellant has been falsely implicated in view of the inimical relations between the parties. He further submitted that the medical evidence in particular, the FSL report does not in any way further the prosecution case vis-à-vis the allegations of sexual assault by the appellant. Learned counsel further submitted that there are several contradictions inter-se in the evidence of PW1, PW2 and PW3 vis-à-vis the incident of sexual assault and as such, no implicit reliance can be placed in the testimony of the said witnesses. Learned counsel relied on the judgments of the Apex Court in the case of ***Rai Sandeep Alias Deepu v. State (NCT of Delhi)*** reported in ***(2012) 7 SCC 21***, ***Santosh Prasad alias Santosh Kumar Crl.Petn. No. 33 of 2026 v State of Bihar*** reported in ***(2020) 3 SCC 433*** and the judgment of the Gauhati High Court in ***Udalguri, Assam v. The State of Assam rep. by PP, Assam*** in ***CRL.A(J) 2/2020*** in support of his submissions.

8. Mr H. Kharmih, Addl PP submitted that the testimony of the prosecutrix i.e., PW3 inspires confidence and that the said



testimony is duly corroborated by the testimony of her parents i.e, PW1 and PW2 as well as the doctor, PW4. He submitted that in view of the same, no interference is warranted in the impugned judgment and order of conviction and sentence.

9. PW3 – prosecutrix was about 11 years of age at the relevant time. In her examination-in-chief, she has stated that on the day of the incident, she had gone to take a bath near a mill; that as there was no electricity she started returning home, when the appellant called her to his house to remove an iron rod from the racks inside his house. PW3 has further deposed that the appellant lifted her with both his hands up to the rack, however, she could not see the iron rod on the rack; that thereafter, the appellant pulled her clothes and inserted his finger in her private part; that she shouted for help but the appellant covered her mouth with his hand; that thereafter, she became unconscious; that on regaining consciousness, the appellant told her not to disclose the incident to anyone; that when she returned home, she found her clothes were stained with blood; that she informed the incident to her mother who in



turn informed her family members; that they went to the appellant's house and disclosed the incident to the appellant's family members, however, they brushed aside the same and told that she may have received injury due to a fall.

PW3 has further deposed that on the same day, her parents took her to Bhaitbari Hospital for medical treatment, however, the doctor disclosed to her father that it was a police case, pursuant to which they all went to Phulbari Police Station; that the police thereafter took her to Tikrikilla CHC for her medical examination; that the female doctor examined her by checking her private part and inquired from her about the incident, pursuant to which she narrated the incident to her and that after her medical examination, they returned home. She has further stated that her statement was recorded by the Magistrate (PExhibit-7). PW3 also identified the appellant during her evidence.

10. In her cross-examination, nothing material has been elicited to discredit the testimony of the prosecutrix. On the contrary, certain admissions have come in the cross-



examination, which by themselves point to the complicity of the appellant in the crime i.e., that no person was inside the house of the appellant when she entered the house alongwith him; that it is a fact, that the appellant while lifting her inside his house, inserted his finger inside her private part; that when the appellant inserted his finger, she shouted for help; that when she shouted for help, the appellant covered her mouth with his hand resulting in her becoming unconscious; that when she regained consciousness, the appellant offered her ₹2/- and told her not to disclose the incident to anyone. All the aforesaid has come in the cross-examination of the prosecutrix, which shows the presence of the appellant at the house and admission of sexual assault on the prosecutrix by the appellant. There is nothing in the cross-examination of PW3 that has come on record to disbelieve her testimony even remotely. Infact, a perusal of the cross-examination of PW3 will reveal that there is no cross-examination with respect to what has been deposed to by her regarding the actual sexual assault on her by the appellant and as such, the said evidence has gone unchallenged.



11. The aforesaid evidence of PW3 is duly corroborated by her mother-PW2, who was informed of the incident by her daughter-PW3. PW2 in her examination-in-chief has stated that her daughter had gone for a bath when the appellant told her to look for an iron rod which was inside the house; that the appellant lifted her daughter in search of the iron rod and during said time, inserted his finger in the her daughter's private part; that when her daughter tried to scream, the appellant closed her mouth; that when her daughter reached home, her skirt was full of blood and she was crying after which she narrated the full incident to her. PW2 further stated that, on learning of the said incident, she informed her family members, even visited the appellant's house and disclosed the same to the appellant's father, who denied the said incident. PW2 has stated that thereafter, her daughter was taken to the Police Station and subsequently, the police took them to Tikrikilla hospital for her medical examination and that an FIR was lodged with the Phulbari Police Station.



12. In her cross-examination, nothing material has come on record to disbelieve her testimony. To the contrary, it has come that if a person shouts for help from the appellant's house, the same cannot be heard easily and that the appellant had covered her daughter's mouth, inserted his finger and had given her ₹ 2/- for the same.

13. The aforesaid evidence of PW2 and PW3 is duly corroborated by PW1, the complainant and father of the prosecutrix in all material particulars. Even in the cross-examination of PW1, there is nothing on record to discredit his testimony.

14. The aforesaid evidence of all the three witnesses is duly corroborated by PW4, Dr. Sima Celina Sangma. PW4 in her evidence has stated that on 01.04.2019, whilst she was on duty, the police brought one victim girl from Phulbari with a requisition to examine her. She has stated that pursuant thereto, she examined the victim girl after obtaining the consent of her father. She has stated that she noted the brief history of the incident from the victim, who disclosed that when she had



gone to take bath, however, there was no electricity to pump the water; whilst returning home, her neighbour (appellant) called her and told her to collect something from the rack inside the room; that she went there to help him; that her neighbour (appellant) lifted her and inserted his finger in her private part; and that the victim girl tried to shout for help but her mouth was covered.

PW4 has further stated that she collected the clothes worn by the victim at the time of the incident for the purpose of forensic examination; that during examination of the victim girl she found a small abrasion on the right side of her neck and also an abrasion on fourchette with slight reddish on introitus (an abrasion on her vagina). She has stated that after examination, she gave her final opinion stating therein, that the victim girl has been molested in her private part by a finger, in view of the injury noticed by her.

15. Again, there is no cross-examination of the doctor with respect to the history given to the doctor by the victim except for



the fact that the abrasion could be if the victim fell on a sharp object.

16. Thus, from the aforesaid evidence, it appears that the appellant had sexually assaulted PW3 by inserting his finger in the vagina resulting an injury to the private part of the PW3. Therefore, we find that the prosecution has proved its case beyond reasonable doubt qua the appellant.

17. As far as the submission of the learned counsel for the appellant that there are discrepancies in the FIR and the evidence of PW1 vis-à-vis rape is concerned, we find that there are no such discrepancies. Apart from the fact, that there is no cross-examination with respect to the contents of the FIR except for the admission that has come in the evidence of PW1 “that the FIR was drafted by one Advocate and it was not read over to him.” The fact remains that the allegations were of rape. No doubt, the clothes of the prosecutrix were not produced before the Court by the police, however, nothing turns on the non-production of the said clothes in view of the overwhelming evidence qua the appellant with respect to sexual assault by him



on PW3, aged 11 years. Infact, there is nothing on record to even suggest why PW1, PW2 and PW3 would falsely implicate the appellant, except for a suggestion that there were inimical relations between the parties. However, the reason why the relations were sour or inimical has not come on record.

18. As far as the judgments relied upon by the learned counsel for the appellant are concerned, there can be no dispute about the proposition of law laid down in the said judgments, however, such judgments are clearly distinguishable and would not apply to the facts in hand.

19. Considering the aforesaid evidence on record, it is duly proved by the prosecution beyond reasonable doubt against the appellant and no interference is warranted in the impugned judgment and order of conviction and sentence, passed by the learned Special Judge (POCSO), West Garo Hills, Tura in Special POCSO Case No. 30 of 2019.

20. The appeal being devoid on merits, stands dismissed.



21. Since compensation has been awarded as stated in paragraph 1 of the aforesaid judgment, the Meghalaya State Legal Services Authority to the survivor, a report to be submitted by the Secretary, District Legal Services Authority, West Garo Hills, Tura, as to whether the survivor has been given compensation of ₹ 3 lakhs as awarded by the trial court. The said report to be submitted to this Court within eight weeks from the date of receipt of this judgment and order.

22. The Registry to forward forthwith a copy of this judgment and order to the Secretary, DLSA, West Garo Hills, Tura, to enable the Secretary to submit the report.

23. Place the aforesaid appeal for recording compliance of paragraph 21 on **13th August, 2026**.

(W. Diengdoh)
Judge

(Revati Mohite Dere)
Chief Justice