



Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.A. No. 54 of 2024

Date of CAV: 14.05.2026

Date of pronouncement: 20.05.2026

Shanborlang Thabah

...Appellant

- versus -

State of Meghalaya represented by Commissioner & Secretary
Home, Shillong.

...Respondent

Coram:

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

Appearance:

For the Appellant : Mr S.A. Pandit, Adv.

For the Respondent : Mr K. Khan, AAG with
Mr A.H. Kharwanlang, Addl Sr GA
Mr A.S. Dey, GA

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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 3rd August, 2023, passed by the learned Special Judge (POCSO), West Khasi Hills District, Nongstoin, in Special



(POCSO) Case No. 31 of 2020 convicting the appellant for the offence punishable under Section 6 of the POCSO Act, and sentencing him to suffer 15 years rigorous imprisonment with fine of ₹50,000/-, in default of payment of fine to further undergo six months simple imprisonment.

In addition, the learned Special Judge under Section 357A Cr.P.C. and provisions of the POCSO Act recommended compensation of ₹ 2 lakhs to be paid to the survivor, by the Meghalaya State Legal Services Authority for the welfare of the survivor. Interim compensation if any paid, to be adjusted with the final compensation.

2. The factual matrix of the case is as under:

The appellant is the father of the survivor, who at the relevant time was between 14 and 15 years of age. According to PW1 (complainant), his niece was sexually assaulted on multiple occasions by her father i.e., the appellant at the residence. It is the prosecution case that the survivor informed her cousin



sister, who informed her mother (aunt of the survivor) of the sexual assault, who in turn informed PW1 of the same. An FIR came to be registered accordingly, as against the appellant alleging offences under the POCSO Act with the Mairang Police Station. After investigation, charge-sheet was filed in the said case in the Court of the learned Special Judge (POCSO).

The trial court framed charge as against the appellant to which, he pleaded not guilty and claimed to be tried. The prosecution examined seven witnesses in support of its case;

PW1 – Uncle of the survivor.

PW2 – Survivor.

PW3 – Mother of the survivor.

PW4 – Relative of the survivor.

PW5 – Headman and distant relative of the survivor.

PW6 – Dr Chanmiki Lakiang Challam, Medial & Health Officer.

PW7 – WP/S.I. Ralchelish R. Marak.



Thereafter, the accused's 313 statement was recorded in which he denied the incriminating evidence against him. The appellant did not examine any witness on his behalf.

After hearing the learned counsel appearing for the respective parties, the learned Special Judge (POCSO), convicted and sentenced the appellant as stated aforesaid in paragraph 1 of the judgment.

3. Learned counsel for the appellant submitted that the evidence deposed to by the survivor (PW2) cannot be relied upon in view of the discrepancies in the evidence of the survivor and her statement recorded under Section 164 Cr.P.C. He submitted that PW2 (survivor) in her 164 statement has stated that the appellant only attempted to sexually assault her and not that he actually committed the said acts of sexual assault, whereas in her testimony before the Court, she has falsely alleged sexual assault by the appellant. He submitted that in this view of the matter, no reliance can be placed on the testimony of the survivor i.e., PW2. Learned counsel further submitted that,



except for the evidence of the prosecutrix i.e., PW2 which does not inspire confidence, the other evidence of the witnesses being hearsay, cannot be relied upon.

4. Mr K. Khan, learned AAG submitted that the appellant had grossly abused and misused the trust reposed in him as a father, by sexually assaulting PW2 (survivor) his daughter. He submitted that the testimony of the prosecutrix inspires confidence and that the acts of sexual assault by the appellant have gone unchallenged and as such, no interference is warranted in the impugned judgment and order of conviction and sentence.

5. We have heard learned counsel for the respective parties and perused the evidence with their assistance.

6. PW1 is the uncle of PW2 (survivor) and complainant in the said case. He has disclosed that he learnt of the sexual assault on his niece by the appellant on 12.07.2020, when his elder



sister disclosed the same to him. He has stated that on learning of the said sexual assault on his niece, he inquired with the niece about the incidents, pursuant to which she narrated to him how the appellant on numerous occasions had committed penetrative sexual assault on her, at the residence. On learning the same, he reported the incident to the police, who registered an FIR as against the appellant. The said FIR has been exhibited as Exhibit-P1. His statement was also recorded under Section 164 Cr.P.C. PW1 has disclosed that his niece was 15 years of age at the relevant time. He has also handed over to the police the birth certificate of his niece.

In cross-examination, PW1 has denied that the sexual assault was not actually committed, but was only an attempt. Nothing material has been elicited in the cross-examination of PW1 to disbelieve his testimony with respect to the disclosure made by the survivor to him.



7. PW2 is the survivor, who at the relevant time i.e., at the time of the incident was about 14 years of age. PW2 in her evidence has stated in detail, the manner in which the appellant had sexually assaulted her. Question Nos. 7 and 8 and answers to the said questions, are reproduced hereinbelow;

“Q7. What did the accused do to you?

Ans: At the time of the first incident I was 14 years old and I do not remember in what Class I was studying. One particular day I do not remember the date, month and year of the incident, it was in the night time, when all my siblings were sleeping and my mother was not at home. I was sleeping with my younger sister when the accused came to my bedroom and started caressing by breast and touched my private parts. I resisted and thereafter the accused left. The same act continued on numerous occasions about three to four times in a week.

Q8. What happened thereafter?

Ans: On one occasion I do not remember the date of the incident, the accused person during the night again came to my room when I was sleeping alone and my mother was not at home, the accused removed my pants and undergarments and similarly removed his pants only above his knees and laid on top of me and committed penetrative sexual assault upon me. I resisted and fought back and kicked the accused person and thereafter he left my room. The same incident occurred on two occasions. The accused told me not to report the incident to my mother.



Q9 What did you do after the incident?

“Ans: When I was in Class VI or VII I narrated the incident to my elder cousin sister (name withheld) and my cousin sister reported about the incident to her own mother (name withheld) and thereafter my Meiheh (name withheld) reported about the incident to my uncle PW-1 and other family members. After my family members learnt about the incident, I myself narrated to them about the incident.”

PW2 has further deposed that she disclosed the incident to her cousin sister, who in turn informed her mother and, who in turn informed the same to PW1 and other family members. She has stated that after her family members learnt about the incident, she too narrated to them the incidents of sexual assault. She has deposed her date of birth as 07.08.2004 and has admitted that the statement was recorded by the police as well as the Magistrate.

It is pertinent to note that, in the cross-examination, there is no cross with respect to what was stated by PW2 in question Nos. 7 and 8. There are no denials taken. PW2 admitted in her cross-examination that when the incident took place, her mother was not at home; that when the appellant touched her



private parts, she was sharing the bed with her younger sister, who was 2 years of age therefore, she did not raise any alarm; that she was afraid of her father and as such, did not report the incident; that the appellant committed penetrative sexual assault on her when her mother was not at home and only her younger siblings were at home and that she narrated to her elder cousin sister that the appellant had committed the penetrative sexual assault on her. Infact, in the cross-examination, PW2 has categorically stated that *“It is a fact that I have stated in my statement u/S 164 Cr.P.C. that the accused initially attempted to commit penetrative sexual assault upon me and was subsequently successful.”*

Keeping the aforesaid cross-examination in mind, it is evident that there are no suggestions or denial given to the said witness.

8. PW3 is the mother of the survivor. It appears from her evidence that she learnt of the incident only after her husband



was arrested and when her younger brother (PW1) informed her that the appellant had sexually assaulted PW2. Her evidence is not of any assistance either to the prosecution or to the defence.

9. PW4 is a relative of the survivor. He has stated that on 12.07.2020, he received a call from PW1, asking him to come to his residence; that when he went to PW1's residence, PW1 informed him that the appellant had raped his daughter (PW2); and that on inquiry from the survivor, she disclosed that she was raped by her father in 2019.

There is no cross-examination of the said witness except that he did not make any inquiry from the appellant about the incident.

10. PW5 is also from the survivor's clan and is distantly related to her. He too has deposed on similar lines as that of PW4 i.e., that he went to PW1's house on learning of the incident, where the survivor disclosed that the appellant had



committed penetrative sexual assault on her. Pursuant thereto, they all accompanied PW1 to the Police Station.

Again, nothing material has come in the cross-examination of the said witness to discredit his testimony.

11. PW6 – Dr Chanmiki Lakiang Challam, is the Medical and Health Officer, who was attached to Tirot Singh Memorial Hospital, Mairang at the relevant time. He has disclosed that the survivor i.e., PW2 narrated to him the incident that had occurred at her own residence one year ago i.e., when she had slept, the appellant held her hand, undressed her and sexually assaulted her. The appellant is also alleged to have told the survivor not to disclose the incident and had lured her with money, which she refused.

PW6 has deposed and observed in the medical case papers that on local examination, there was mild redness around the vulval region and that the hymen was not found intact.



12. Keeping in mind the aforesaid evidence on record, we find that the testimony of PW2 inspires confidence and there is no reason to disbelieve her testimony. Infact, as noted aforesaid, there are no denials taken with respect to what was deposed to by PW2. Infact, the answers to the two questions i.e., Q Nos. 7 and 8 of the survivor's testimony, there are no suggestions given to PW2 as to why she would falsely implicate or depose against the appellant, more particularly, when the appellant was her father. The aforesaid evidence is duly corroborated by some of the witnesses, who have categorically stated that the survivor had disclosed to them about the sexual assault committed by the appellant. The said evidence is also duly corroborated by the evidence of PW6, Dr Chanmiki Lakiang Challam, who examined the survivor and found that her hymen was not intact. We also do not find any delay in reporting the incident of sexual assault by the appellant on PW2, as delay, will have to be considered in the light of the age of the prosecutrix and her relationship with the appellant. We find that the appellant, her father had clearly breached all norms of morality and decency by sexually



assaulting his young daughter, aged 14 years at the relevant time. He had also breached the fiduciary relationship and the trust reposed by the survivor on the appellant.

13. Considering the evidence on record, we find that the prosecution had proved its case beyond reasonable doubt qua the appellant and as such, no interference is warranted in the impugned judgment and order dated 3rd August, 2023, convicting and sentencing the appellant as stated aforesaid.

14. The appeal is, accordingly dismissed.

15. Since, the trial court has also recommended compensation of ₹2,00,000/- to be given by the Meghalaya State Legal Services Authority to the survivor, a report to be submitted by the Secretary, District Legal Services Authority, West Khasi Hills, whether the said amount has been disbursed to her or not. The said report to be submitted before this Court within six weeks.



16. The Registry to forward forthwith a copy of this judgment and order to the Secretary, DLSA, West Khasi Hills District, Nongstoin, to enable the Secretary to submit the report.

17. Place the aforesaid appeal for recording compliance of paragraph 15 on **1st July, 2026**.

(W. Diengdoh)
Judge

(Revati Mohite Dere)
Chief Justice

