



Serial No. 01
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.A. No. 62 of 2024

Date of CAV: 19.05.2026

Date of pronouncement: 22.05.2026

Saddam Hussain

...Appellant

- versus -

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 S.D. Upadhaya, Adv. with
Mrs A. Synrem, Adv.

For the Respondent : Mr R. Gurung, Addl PP

- | | | |
|-----|--|-----|
| 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 dated 8th May, 2023 and order dated 9th May, 2023 passed by the learned Special Judge (POCSO), West Garo Hills, Tura in Special POCSO Case No. 14 of 2018, convicting him for the offences punishable under Sections 5(m)/6 of the POCSO Act and sentencing him to suffer rigorous imprisonment for 14 years



and to pay fine of ₹10,000/-, in default of payment of fine, to undergo three months simple imprisonment.

2. The prosecution case in brief is as under:

According to the prosecution, the appellant, a neighbour of the survivor aged 9 years, sexually assaulted her on 23rd June, 2018 at his residence. Pursuant thereto, the survivor informed her mother in the intervening night of 23rd and 24th June, 2018 about the sexual assault on her by the appellant. Thereafter, the survivor's mother informed her husband i.e., the survivor's father, who lodged an FIR as against the appellant with the Phulbari Police Station on 24th June, 2018 alleging offences punishable under Sections 5(m)/6 of the POCSO Act. During the course of investigation, the appellant was arrested. The survivor's and other witnesses' statements were recorded. The survivor was also sent for medical examination to Phulbari CHC, Goalpara Hospital and also to Maternity & Child Hospital, Tura. After investigation, charge-sheet was filed in the said case in the Court of the Special Judge (POCSO), Tura.



The trial court framed charge against the appellant to which, the appellant pleaded not guilty and claimed to be tried.

The prosecution in support of its case, examined the following witnesses;

PW1 - Father of the survivor.

PW2 - Mother of the survivor.

PW3 - Survivor.

PW4 - Brother of the survivor.

PW5 - Co-villager of the appellant.

PW6 - Dr. Amanda Salchira W. Momin,
Medical & Health Officer.

PW7 - Neighbour of the appellant.

PW8 - Dr. Janki G. Momin.

PW9 - WPSI Smt. Sildha N. Marak.

PW10 - Deputy Director Forensic Science Laboratory,
Meghalaya, Shillong.

PW11 - Officer-in-Charge, Women P.S., Tura.

3. Thereafter, the statement of the appellant was recorded under Section 313 Cr.P.C. The defence of the appellant was that of alibi and false implication.



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

5. Mr. S.D. Upadhaya, learned counsel appearing for the appellant submitted that the testimony of the prosecutrix is unreliable and as such, ought not to have been relied upon. He submitted that even the medical evidence does not corroborate the case of the prosecutrix/survivor that she was sexually assaulted. He submitted that in this view of the matter, the appellant be acquitted of the offence with which he was charged and convicted.

6. Mr R. Gurung, learned Addl PP submitted that no interference was warranted in the main judgment and order of conviction and sentence. He submitted that the survivor was about 9 years old at the relevant time and that her evidence inspires confidence. He further submitted that the evidence of



the prosecutrix is duly corroborated by other witnesses as well as by the medical evidence of the doctors.

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

8. PW3 was studying in Class III and was about 9 years of age at the relevant time when the incident took place. PW3 in her evidence has stated that when she was on her way home through the compound of the appellant, the appellant gagged her with his palm, lifted her and took her inside his house; took her to his bed; undressed her; pulled down her panty and laid on top of her. She has stated that she sensed pain in her private part and she could feel that the appellant had used his private part to cause pain to her private part; that she could not scream as the appellant had gaged her mouth; that thereafter, she became unconscious; that on reaching home, she searched for her mother, however, her brother told that she had gone out;



that she was crying and looking for her mother in the house; that before her mother arrived, she was lying on her bed as she was feeling unwell; that she did not disclose to her father and brother as she was feeling shy; that she disclosed the entire incident to her mother in the night whilst sleeping with her; that the next morning, her mother took her to the appellant's house where there was a quarrel and from there they went to Phulbari Police Station and thereafter, to Phulbari Hospital where she was examined by a male doctor. PW3 has further deposed that on the next date, she was taken to Goalpara Hospital by her parents where she was there for 15 days and later, she was taken to Tura Hospital. She has further deposed that her statement was recorded by a Magistrate and that she has identified the signature on the said 164 statement. She has also identified the appellant.

9. From a perusal of the evidence of PW3, it appears and which fact has been recorded by the learned Judge is, that on seeing the appellant, the survivor cried and hugged her mother out of fear. PW3 in her evidence has also stated that she has got



scared of the appellant as she was seeing him for the first time post the incident.

10. Nothing material/significant has come in the cross-examination of this witness i.e., the survivor to discredit her testimony. Infact, there are no denials with respect to the sexual assault given in detail by PW3 i.e., the survivor. Infact, in the cross-examination, the survivor has admitted that the appellant had not covered his face at the time of the incident; that the appellant did not beat her at the time of the incident; that she was not tutored by her mother; that she had not seen the accused in the village after the incident, and, that there was no enmity between her family and the appellant and his family. Apart from the aforesaid, there is no cross-examination on any material aspect as deposed to, by the PW3.

11. The aforesaid testimony of PW3 (survivor) is duly corroborated by PW1 (father of the survivor) and PW2, (mother of the survivor). PW2, mother of the survivor has categorically stated that she was not at home at the relevant time and that in the night her daughter (survivor) narrated the incident of sexual



assault on her by the appellant. PW2 has further stated that on learning of the said incident of sexual assault by the appellant on her daughter, she immediately informed her husband pursuant to which they went to the appellant's house after which, an FIR was lodged with the Phulbari Police Station. PW2 has also stated that her daughter (survivor) was taken to the hospital for her medical treatment.

12. Again, in the cross-examination of PW2, nothing material has been elicited to disbelieve her testimony. Again, there is no cross with respect to the disclosure made by the survivor to PW2. In the cross-examination of the said witness it has come, that it is a fact that the survivor was admitted at Goalpara Hospital as she was having a problem due to injuries of sexual assault; that after commission of the offence, her daughter was unconscious and she could not say who brought her near to her house and on regaining consciousness, she came to her house; and that there was no enmity or quarrel with the appellant prior to the incident.



13. PW4 is the elder brother of the survivor. His testimony corroborates with respect to the sequence of events deposed to by the survivor. The aforesaid evidence of the prosecutrix duly corroborated by her family members, also stands duly corroborated by the medical evidence on record.

14. PW6, Dr. Amanda Salchira W. Momin was posted at the Maternity & Child Hospital as a Medical and Health Officer at the relevant time. According to PW6, the survivor's mother disclosed that there was sexual assault committed on her daughter two weeks prior, following which she had sustained injury of vulval swelling and other associated complaints. She has stated that on examination of the private parts of the survivor, she detected vulval swelling associated with pain and itching. She also noticed some trauma afflicted to the said body part.

15. In the cross-examination, it has come that she was 99 per cent of vulva swelling due to sexual assault. To Court's question, PW6 has stated that she advised the survivor's parents to maintain hygiene of her private parts, to avoid infection due to



injury on the vulva which was a result of sexual assault and that the injury present in the vulva was due to the forceful penetration.

16. PW8, Dr. Janki G. Momin has deposed that she examined the survivor aged 9 years as per the requisition received from the police on 24.06.2018. According to PW8, she found redness around the vaginal orifice and also found that the hymen was not intact.

17. PW8 in her cross-examination has stated that though the hymen was found torn, she has not mentioned whether the tear was old or fresh.

18. Thus, the aforesaid medical evidence that has come on record clearly corroborates the evidence of the survivor and other witnesses, who were family members of the survivor that the survivor was a victim of sexual assault.

19. It is pertinent to note, that the appellant to the question, that the survivor was 9 years old at the relevant time, has



answered by stating that the victim was not 9 years or but she was more than 9 years and that she must be between 10 to 12 years in 2018. Thus, the appellant has admitted that the survivor was a minor at the relevant time.

20. Be that as it may, the birth certificate placed on record by one of the witnesses, shows that the survivor was 9 years at the relevant time and that there is no serious challenge to the same in the cross-examination of any of the witnesses.

21. In view of the matter, no interference is warranted in the impugned judgment and order convicting and sentencing the appellant for the offences that he was charged.

22. Being devoid of merit, the appeal is dismissed.

(W. Diengdoh)
Judge

(Revati Mohite Dere)
Chief Justice