

30.07.2025
SL No.24
Court No.446
S.Gayen

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

CRA 138 of 2018
with
IA No. CRAN 1 of 2018 (Old No. CRAN 1551 of 2018)
CRAN 3 of 2020
CRAN 4 of 2020
CRAN 5 of 2020
CRAN 6 of 2020
(CRAN 3 to 6 of 2020 are not in file)

Md. Naushad
Versus
The State of West Bengal & Anr.

Ms. Sujata Das
Ms. Sreetama Das

...for the State

1. None appears on behalf of the appellant.
2. Learned advocate appearing for the State-respondent filed one report of Officer-in-Charge, MTV Cell, Traffic Department, Kolkata addressed to the learned Public Prosecutor of this Court, whereby it is reported that the accused person namely, Md. Naushad was convicted by the learned Additional District & Sessions Judge, 1st Court, Sealdah, South 24 Parganas dated 1st February, 2018 and sentenced to Rigorous Imprisonment for five years along with a fine of Rs. 50,000/-, in default to undergone Simple Imprisonment for six months.
3. The convict-accused was released from Burdwan Central Correctional Home, Purba Bardhaman on 14th August, 2022 after completion of the sentence including the default imprisonment in lieu of non-payment of fine. The said report of the Superintendent

of Burdwan Central Correctional Home along with release certificate of the accused be kept with the record.

4. This criminal appeal has been filed under Section 374(2) of the Code of Criminal Procedure, 1973 against the judgment and order dated 1st February, 2018 passed by the learned Additional District & Sessions Judge, 1st Court, Sealdah cum Special Judge, POCSO Court, Sealdah in connection with Special Case No. 34 of 2017 thereby convicting the present appellant to suffer the sentence as stated above.
5. The prosecution was initiated on the basis of a written complaint lodged by the mother of the victim alleging that on 7th August, 2017 at about 15:40 hours the said accused forcibly pulled the victim of 11 years inside the staircase and committed sexual assault touching her breast. Accordingly, the case was started. On the basis of which Entally Police Station Case No. 280 of 2017 dated 7th August, 2017 under Section 8 of the Prevention of Children from Sexual Offences Act, 2012 (hereinafter referred to as the POCSO Act) was started against the present appellant and on completion the investigation, the charge-sheet was submitted under Section 8 of the POCSO Act.
6. The case was later committed to the Court of sessions and was transferred for trial and disposal to the Court of learned Additional Sessions & District Judge, 1st Court, Sealdah cum Special Judge under the POCSO Act, where the charges were framed under Section 10 of the POCSO Act which was read over and explained to him to which he pleaded not guilty and trial commenced.

7. In order to substantiate the case the prosecution has adduced six witnesses amongst whom the PW3 was the complainant. The learned Court after considering the evidences and the materials on record passed the said judgment and order of conviction with a fine of Rs. 50,000/- out of which 90% of the amount is to be paid to the victim as compensation under Section 357 of the Code of Criminal Procedure, 1973.
8. However, as it appears from the report that the accused/appellant failed to pay the said fine amount and accordingly suffered the default sentence of Rigorous Imprisonment for further six months.
9. It appears from the record that the victim was 11 years at the time of incident and her medical examination was done. Accordingly, the doctor/PW2 took the medical certificate and the learned Court was also observed by passing the order of conviction and recorded the 164 statement which corroborated about that aggravated sexual assault by the accused.
10. Therefore, considering the above facts and circumstances and considering the judgment and order of conviction as passed by the learned Trial Court and coupled with the fact that the accused person has already suffered sentence, this Court finds that there is no reason to interfere with such order passed by the learned Trial Court.
11. Hence, the criminal appeal being **CRA 138 of 2018** stands **disposed of**.
12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

13. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

[*Chaitali Chatterjee (Das), J.*]