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IN THE COURT OF 6th DISTRICT & ADDITIONAL SESSIONS
JUDGE CUM SPL. JUDGE, POCSO ACT.

(Present: Amlesh Kumar Singh)
6thDist. & Addl. Sessions Judge
cum Spl. Judge, POCSO Act,
East Champaran, Motihari.
[07.04.2026]

[P.Tr. No. 88/2024]
C.I.S. No. 124/2024
(Muffasil P.S. Case No. 553/2023)

FORM A

Informant	STATE OF BIHAR through Bhukhal Ram, S/o- Late Batahu Ram, R/o- Dhekaha Karn Kuiya Tola, P.S- Muffasil, East Champaran.
REPRESENTED BY	Sri Mani Kumar, Ld. Spl. Public Prosecutor.
ACCUSED	1. Nitish Kumar, S/o- Shivnarayan Paswan & 2. Sanoj Kumar, S/o- Ashok Paswan, Both are R/O village- Dhekha Karan Kuiya Tola, P.S.- Muffasil, East Champaran.
REPRESENTED BY	Sri Shashi Bhushan Prasad, Ms. Pravin Ashma Naphis, Sri Sudhakar Kumar Mishra & Kumar Raj Ld. counsels for defence.

FORM B

Date of offence	01.08.2023
Date of FIR	04.08.2023
Date of Charge-Sheet	27.03.2024
Date of Framing of Charges	18.01.2025
Date of commencement of evidence	25.04.2025
Date on which judgment is reserved	04.04.2026

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Date of the Judgment	07.04.2026
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ACCUSED DETAILS:

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release of Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428, Cr.P.C.
1.	Nitish Kumar	N.A	N.A	Under sections	Acquitted	No	N.A
2.	Sanoj Kumar	N.A	N.A	363, 366A/34 of I.P.C., & Section- 8 of the POCSO Act.	Acquitted	No	N.A

JUDGMENT

1. The accused persons namely 1. Nitish Kumar & 2. Sanoj Kumar are facing trial under sections 363, 366A/34 of I.P.C., & Section- 8 of the POCSO Act.
2. In the present case, the F.I.R. was registered on the basis of written petition of the father of the minor victim, aged about 16 years. In the written petition he alleges that on 01.08.2023 present accused-persons had kidnapped his minor daughter with with the intention of marriage.
3. The I.O., upon investigation, filed charge-sheet bearing no. 126/2024, dated 27.03.2024, under sections 363, 366A of the I.P.C., & Section- 8 of the POCSO Act against accused person namely Nitish Kumar and not sent up for trial against present accused person no. 2 including other co-accused persons in this case and same was

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forwarded to the court.

COGNIZANCE:-

4. The cognizance of the offences was taken by the court against the accused persons namely 1. Nitish Kumar & 2. Sanoj Kumar under sections 363, 366A/34 of the I.P.C., & Section- 8 of the POCSO Act on dated 30.05.2024, after finding sufficient evidence against them.

CHARGE:

5. Copies of police papers were received on behalf of the accused persons namely 1. Nitish Kumar & 2. Sanoj Kumar, and charges has been framed under sections 363, 366A/34 of the I.P.C., & Section- 8 of the POCSO Act, on dated 18.01.2025. The contents of charges were read over and explained to the accused persons in hindi over which they pleaded their innocence and claimed to be tried.

PROSECUTION EVIDENCE:

6. In order to bring home the charges, the prosecution side has examined altogether 04 (four) witnesses including the minor victim. They are as under:-

- (i) P.W. 1, namely Bhukhal Ram (Informant)
- (ii) P.W. 2, namely X (Mother of the victim girl)
- (iii) P.W. 3, namely Aklu Ram (Villager)
- (iv) P.W. 4, namely X (Victim)

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7. The prosecution has also relied upon the following documents;

- (i) Signature of the informant on his F.I.R petition has been marked as Exhibit- 1.
- (ii) Signature of the victim on her statement under section-164 Cr.P.C. has been marked as Exhibit- 2.
- (iii) Singnature of the victim on age related medical examination has been marked as Exhibit- 3.

8. On behalf of prosecution altogether 4 witnesses have been examined. All the four prosecution witnesses including the informant and the victim have not supported the allegations as alleged in the F.I.R. in toto. Prosecution witnesses no. 2,3,4 have accepted the fact that the accused is of their village that's why they are identifying them. P.W1. States about the accused that the accused is nephew in his relative that's why he has knowledge about him.

9. In the present case none of these prosecution witnesses have confidently claimed that the accused persons have kidnapped the victim and have committed sexual assault against her, as alleged in the F.I.R. P.W1. is Bhukhal Ram who is the informant of this case, states in his examination in chief that he has lodged the case against the accused Nitish Kumar and Sanoj Kumar. The event occurred one years ago at about 8 o'clock in the night. His minor daughter has gone outside to attend nature's call. But she didn't return till late hours. In the anticipation of any misdeeds, he started searching his minor daughter everywhere. Later on, the villagers told him that they have seen the victim while going with the accused Nitish and Sanoj. So, He went to police station and lodged the case. He is identifying his signature made on the F.I.R. petition and which

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has been marked as Exhibit-1. In para-2 or 3, he further claims that his victim girl returned back to his house after 8 days of lodging the case. On being asked the victim told him that she has gone with the accused Sanoj. She didn't tell anything further. Today, In the court the accused Nitish Kumar is present and he is identifying him. However, during the cross-examination he declined to support or corroborate the allegations as made against the accused person. He accept the fact in para-4, 5 & 6 that F.I.R. petition was not written by him. It is the villagers who wrote that petition and he only signed that written petition. Even the contents of the F.I.R. was never read over to him by the police. When his victim daughter returned to him she told him that she has gone to his mousi's house. She didn't tell anything about the accused in any manner. The accused Sanoj is his relative and he is the person who brought back his minor victim from the house of her Aunt (*Mousi*). Infact, he do not have any complain against the accused person in any way.

10. P.W. 2 is the mother of the victim and she is the wife of the informant. She in her examination in chief has also not supported or corroborated the manner of occurrence against the accused. She further states that the event occurred one and half years ago. It was a night time, she was not at her house and she had gone to Bettiah for her treatment. When she returned back from Bettiah she heard that her daughter is missing. After 4 or 5 days, she was recovered but she didn't tell anything about the event. She further claims to identify the accused persons. However, during the cross-examination she retracted from her previous statement in chief. Now, she accepted the fact in para-3 , 4 & 5 that when her daughter returned back she told her that she has gone to her mousi's house. Her husband who is the informant of this case also told him that he has lodged this case under the persuasion by the villagers. The accused never visited her house and her daughter has not made any complain against them. She

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further claims the fact that she had told her daughter that she is going to stop her schooling. So, she got angry and left her house. In the meanwhile, she went to Bettiah for her medical treatment and her minor daughter went to her mousi's house after being resented at her mother's rude behaviour. The accused persons are of her village that's why she is identifying them.

11. P.W. 3 is Aklu Ram who used to live outside his house. He states that he has heard about the event that the accused Nitish kumar has kidnapped the minor daughter of the informant and the present case has been lodged in the respect of that event of kidnapping. He didn't know anything more about the present case. He further claims to identify both the accused persons. He further declines to have any knowledge about the case as he remains outside the state and he only knew about the event after 6 or 8 months of the alleged event. The police never recorded his statement and he is identifying the accused persons because they are of his village.

12. P.W. 4 is the victim who has appeared with his father before the court to depose her examination in chief before the court. She states that the present case has been lodged by his father but she do not know, against whom. She even do not know when the said event occurred. Even she do not know as why she has turned up before the court. What event was occurred, even she don't know. At the time of alleged event, she had gone to her mousi's house. Even her parents where well-known that she is at her mousi's house. She has phoned to her parents from her mousi's house. So, her parents came to her mousi's house and brought her back. She is identifying her signature made on the statement of 164 Cr.P.C. and on her age related medical examination report. Both her signatures have been marked as Exhibit-2 & 3 respectively. She further claimed that she is identifying only the accused Sanoj kumar. During her cross-examination, she further

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states that she had gone to her mousi's house with her consent and nobody had kidnapped her. She is identifying the accused because he is of her village.

13. No other witnesses have been examined on behalf of the prosecution. Doctor and I.O has not appeared in this case. The prosecution evidence was closed at the request of Ld. Spl. P.P. on 18.03.2026.

STATEMENT OF ACCUSED :

14. The statement of accused persons, U/S 313 of the Cr.P.C., was recorded on dated 24.03.2026, wherein, the accused persons denied the allegations and claimed themselves to be innocent and submitted that they have been falsely implicated in the case.

DEFENCE EVIDENCE

15. No defence evidence was produced before the court on behalf of the accused persons. The defence evidence was closed at the request of learned counsel for defence in terms of order dated 24.03.2026 and the case was posted for final arguments.

ARGUMENTS:-

16. Heard the Ld. counsel for the defence as well as the Ld. Spl. P.P. for the state & also heard the Ld. counsel for the informant, at length. The Ld. counsel for the accused persons have submitted that the prosecution has miserably failed to support the charges against the accused persons. He has further submitted in the course of the arguments

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that there are contradictions in the prosecution case and the prosecution has not been able to bring on the record plausible evidence in order to support the case against the accused persons. The defence side has stressed that in view of the materials available on the record, the accused persons deserve to be acquitted from all the charges in this case. The informant and the victim have themselves not supported the allegations of this case against the accused persons. The Ld. Spl. P.P for the state has submitted that the prosecution has been able to prove the charges against the accused persons and there is ample evidence against the accused person, on the record. However, he admits the fact that all the 4 prosecution witnesses including the informant and the victim have not supported or corroborated the charges levelled against the accused persons. Infact, the witnesses have stated that the victim had gone to her mousi's house and she has been brought back by her parents from that house. The F.I.R has been lodged under the influence of villagers. The accused persons have not committed any offence as alleged in the F.I.R. The accused persons are of his village that's why they are identifying them. Even P.W-1 who is informant and father of the victim, has denied the happening of the event in his examination in chief. He has stated that under the influence of the villagers and on the basis of suspicion F.I.R has been lodged against the accuse-persons. Nobody has seen them while committing the offence. Other prosecution witness P.W- 2, P.W- 3 & P.W- 4 have also denied about the involvement of accused persons in committing the offence as charged against accused persons. All the prosecution witnesses except the victim are hearsay witnesses and they have categorically denied the alleged offences against accused persons.

DECISION AND THE REASONS THEREOF:

17. Perused the entire record including the evidences adduced on behalf of the

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prosecution side and also heard the arguments of both the sides. It appears that altogether 04 (Four) witnesses have been examined on behalf of the prosecution side. Out of which PW-1 is the informant who has stated in para 1 of his examination in chief that he has lodged this case against accused persons under influence of his villagers. The accused-persons are innocent and nobody had kidnapped his minor daughter. PW-4, who is the victim has also not supported the fact of allegations against the accused persons. P.W- 1, P.W- 2 & P.W- 3 state that they had not seen the occurrence of the event. They are hearsay witness in this case.

In this backdrop, it is needless to discuss the charges framed in this case, offence-wise, when informant has stated that the accused persons facing trial had not committed the offence as charged. It is his mistake of fact and understanding to lodge the case against the accused persons. In my view, this is a case of very weak evidence against the accused persons facing trial. Hence, this court comes to the conclusion that the prosecution has miserably failed to support its case, and the accused persons facing trial, deserves to be acquitted from all the charges in this case.

18. Be it as it may, the court is also duty-bound to appreciate the materials as well as evidences for coming to a lawful conclusion. It is the duty of the court to see the facts as well as evidences of a particular case from the perspective of prosecution as well as defence. In POCSO Act, although a concept of presumption against the accused persons have been provided for but to my best understanding such presumption comes into picture only when the prosecution discharges its primary burden to prove the accusation against the accused persons.

19. Coming back to the evidences, it is settled that the cases involving any sexual assault is liable to be seen from the evidence of victim of such case as she is supposed

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to be the best witness of such cases for her/his being a subject of such sexual assault. The Court has to weigh the entire evidences, available on record, in the backdrop of testimony of the victim. The testimony of minor victim is the most important evidence for considering the accusation made in such cases. In this case, the victim girl has appeared and has not supported the case of the prosecution. She has stated that she had gone to her mousi's house, without informing her parents. She has also denied the fact of allegation in totality. About her previous statement of u/s- 164 of Cr.P.C., in which she had stated that she had gone to Muzaffarpur voluntarily with the accused Nitish Kumar. The accused never committed any wrong with her and he even didn't kidnap her. She had gone outside her house with the accused only for touring purposes. And now, she has categorically denied the happening of the event against her by the accused persons, by saying that she had gone to her mousi's house and she had not stated anything about the accused persons. These contradiction of her statements clearly weaken the evidentiality of prosecution case against the accused persons. Therefore, after considering the facts and circumstances, it can be said that this is a case of very weak evidence. Even the informant has not supported the case in his examination in chief.

20. This court finds the contentions of learned defence counsel forceful as the prosecution failed to discharge its primary burden. In light of the observations made hereinabove and after considering the prosecution evidence, I find that the prosecution has miserably failed to prove its case against the accused-persons.

ORDER

21. In the present case, the accused persons namely 1. Nitish Kumar & 2. Sanoj Kumar are facing trial under sections 363, 366A/34 of I.P.C., & Section- 8 of the

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POCSO Act. After going through all the evidences available on the record, this court do not find any sufficient and cogent evidence to prove and support the case against the accused-persons. Therefore, the accused persons namely 1. Nitish Kumar & 2. Sanoj Kumar are hereby '**acquitted**' from this case and their bailers are also discharged from their liabilities and sureties.

22. In the present case, this court finds that the informant has not supported the case of prosecution. There is no other material or document available on record to look upon the aspect of rehabilitation of the victim or for meeting out any special expenses including medical expenses. As such, this court does not find it a fit case to be considered under Rule 9 of POCSO rules, 2020; for the purpose of compensation to the victim girl. It is also observed that the evidences also show that the victim of the case does not fall under the definition of child victim in terms of section 2 (d) of POCSO Act 2012 or section 2 (wa) of Cr.P.C. Therefore, this is not a fit case for grant of compensation to the victim.

23. Ordered accordingly. File be consigned to record room after due compliance.

Dictated & corrected by me.

Sd/-
(Amlesh Kumar Singh)
6th Addl. Sessions Judge-cum- Spl.
Judge, POCSO Act,
East Champaran, Motihari.
Dated 07.04.2026

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