

DISTRICT : ALIPURDUAR.

**IN THE COURT OF THE JUDGE, SPECIAL COURT UNDER P.O.C.S.O ACT,
ALIPURDUAR.**

***Present : Papiya Das, (J.O. No.WB00736)
Additional Sessions Judge-cum-
Judge, Special Court under POCSO Act,
Alipurduar.***

**Ref: Special Case No: 05/2020
corresponding to Sessions Trial No: 18/2020
(CNR No. WBJP05-000041-2020)**

(Arising out of Falakata P.S Case No 07/20 dt.05.01.2020)

**State of West Bengal
Vs.**

Nilkamal Barman.....Accused Person.

A Trial Under Section 6 of POCSO Act.

For the Prosecution:

Sri Sanchay Ghosh.....Ld. Special P.P.

For the Defence :

Sri Deborshi Chatterjee.....Ld. Advocate.

Date of delivery of Judgment: Wednesday, the 14th day of March, 2024.

J U D G E M E N T

The alleged incident of committing aggravated penetrative sexual assault (rape) which occurred on 04.01.2020 upon a 9 years old girl (name withheld to protect identity of the victim and she is identified as victim girl in the body of the entire judgement),

resident of Raichenga, Assam More, P.S,-Falakata gave rise in lodging of the instant complaint.

Bereft from unnecessary details, the prosecution case is that on 04.01.2020 at about 19:00 hours the complainant left her minor daughter aged about nine year and her minor son aged about five years at home and went to the nearby grocery shop. On her way to the grocery shop, she met with the accused person Nilkamal Barman, who asked her about where she was going. The complainant replied that she was going to the grocery shop. After returning from grocery shop the complainant did not find out her minor daughter in the house and then asked her minor son about his elder sister. The minor boy, on interrogation, disclosed that accused Nilkamal lifted the victim girl from her bed and took her away. At that time the complainant shouted and then the accused person fled away leaving her minor daughter. Subsequently the minor daughter divulged to her that accused Nilkamal lifted her from her bed and took her in nearby jungle and denuded her by putting off her wearing apparels and thereafter committed rape / aggravated penetrative sexual assault upon her by putting her into fear. Thereafter the mother of the victim girl lodged the written complaint against the accused Nilkamal Barman before Falakata P.S.

On the basis of that written complaint, Falakata P.S. Case No.07/20 dated 05.01.2020 under section 376(AB) Indian Penal Code read with section

6 of Protection of Children from Sexual Offences Act (in short POCSO Act) has been registered against the FIR named accused Nilkamal Barman. The case was endorsed to S.I, Arup Baidya for causing investigation. During investigation, he visited the P.O, prepared rough sketch map of the P.O. with index, examined the victim girl, seized age proof certificate of the victim girl covering a seizure list, produced the victim girl for her medical examination before Falakata Super Specialty Hospital, seized vaginal swab and panty of the victim girl from the lady constable and sent the same to RFSL, Jalpaiguri for chemical examination, further produced the victim girl before the Court for recording her statement in terms of Section 164 of the Cr.P.C, examined available witnesses and recorded their statements u/s 161 of the Cr.P.C. The Investigating Officer held raid and arrested the accused and forwarded him before the Court and prayed for five days police remand which was allowed for three days only. During PC period of the accused, as per leading statement of the accused and being shown by the remand accused, the IO reconstructed the crime and also searched the probable places as shown by the remand accused to recover his wearing apparels which the accused wore at the time of incident but not found. He also submitted an application for capability test of the accused person and after getting permission from the court conducted the same in Alipurduar District Hospital and the IO collected the report therefrom. Finally, after completion of investigation he submitted charge

sheet against the FIR named accused person Nilkamal Barman alleging commission of offence punishable u/s 376AB IPC read with section 6 of POCSO Act.

As the offence alleged is exclusively triable by the Special Court under the POCSO Act, this Court after receiving the charge sheet took cognizance of the offence and ultimately the sole accused stood on charge by this Court on 03.03.2020 to face the trial for committing offence punishable u/s 6 of POCSO Act. Content of charge was read over and explained to the accused to which he pleaded not guilty and claimed to be tried. Hence, the present trial.

In course of trial, the prosecution could succeed to examine as many as eleven witnesses out of fourteen witnesses cited in the charge sheet.

The following witnesses are examined by the Prosecution.

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| (1) The victim girl - | P.W.-1 |
| (2) Mother of the victim girl (F.I.R. maker) - | P.W.-2 |
| (3) Smt Kali Barman (Independent witness) - | P.W.-3 |
| (4) Humayun Kabir (Ex-SI of police -
& sender of the VG to hospital) | P.W.-4 |
| (5) Basanti Oraon (Lady constable accompanying
the victim girl to Hospital) - | P.W.-5 |
| (6) Malati Chanda (neighbour) - | P.W.-6 |
| (7) Father of victim girl- | P.W.-7 |
| (8) Pradip Pal (videographer) - | P.W.-8 |
| (9) Dr. Ranjan Hazra (M.O) - | P.W.-9 |

(10) Badal Sarkar (scribe)-

P.W.-10

(11) SI Arup Baidya (I.O. of the case) -

P.W.-11

These apart, documents have been admitted into evidence and marked as **Exhibit-1 to Exhibit-11/2** on the side of the Prosecution.

<u>Document</u>	<u>Date</u>	<u>By</u>	<u>Exhibit No.</u>
1) Signature of PW1 on the 164 Cr.P.C Statement	14.01.21	P.W.1	Ext.1/1
2) Signature of PW2 on the written complaint	04.10.21	P.W.2	Ext.2/1
3) Signature of P.W.2 on the medical report	04.10.21	P.W.2	Ext.3/1
4) Signature of P.W.2 on the seizure list	04.10.21	P.W.2	Ext. 4/1
5) Signature of P.W.2 on the carbon copy of seizure list	04.10.21	P.W.2	Ext. 5/1
6) Signature of P.W.5 on the seizure list dated 05.01.20	22.06.22	P.W.5	Ext.5/2
7) Signature of P.W.4 on one requisition	22.06.22	P.W.4	Ext.6
8) Signature of P.W.7 on the seizure list dated 06.01.20	24.06.22	P.W.7	Ext.5/3

9) Signature of P.W.8 on the 164 Cr.P.C Statement	19.12.22	P.W.8	Ext.1/2
10) Requisition for videography	19.12.22	P.W.8	Ext.7
11) Written complaint	20.12.22	P.W.10	Ext.2
12) Endorsement with signature of PW-10 on complaint	20.12.22	P.W.10	Ext.2/2
13) Medical report	20.12.22	P.W.9	Ext.3
14)Signature of P.W.9 on the medical report	20.12.22	P.W.9	Ext.3/2
15) Injury report	20.12.22	P.W.9	Ext.8
16) Signature Of PW 9 on the injury report	20.12.22	P.W.9	Ext.8/1
17) Endorsement with signature of PW-11 on written complaint	10.01.23	P.W.11	Ext.2/3
18) Seizure list dt.05.01.20	10.01.23	P.W.11	Ext.4
19) Seizure list dt.05.01.20	10.01.23	P.W.11	Ext.5
20) Formal FIR	10.01.23	P.W.11	Ext.9
21) Signature of PW-11 on Formal FIR	10.01.23	P.W.11	Ext.9/1
22) Rough sketch map	10.01.23	P.W.11	Ext.10

with index

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| 23) 164 Cr.P.C
statement | 19.09.23 by order | Ext.1 |
| 24) Capability Test
Report | 19.09.23 by order | Ext.11 |
| 25) Signature of Dr. Michel
Biswas on capability test report. | 19.09.23 by order | Ext.11/1 |

These are introductory facts of the prosecution case.

As against this evidence, the Defence neither adduced any oral nor any documentary evidence to rebut the prosecution case or in support of defence plea.

POINTS FOR CONSIDERATION

Now the question which comes up for consideration is whether the accused person is guilty to the head of charge or not and whether the evidence brought on record by the prosecution can be considered sufficient to bring home guilty to the accused person or not.

DECISION WITH REASONS

Before going into the merit of the case, I would like to reiterate the cardinal and primordial principle of criminal law that the burden of proving the guilt of accused person is on the prosecution and the prosecution has to discharge this burden and to prove the guilt beyond any reasonable doubt.

Until and unless, guilt is so proved, accused will be presumed to be innocent. However, Section 29 of the POCSO Act is a departure from general principle of criminal trial. The statutory presumption is against the accused and he has to prove that he is innocent after discharging the onus of proof by the prosecution. Whatever may be, the statutory burden as enacted should be partial and should not thereby shift the primary duty of the prosecution to establish the foundational facts constituting the case against the accused. This duty is always on the prosecution and never shifts to the accused.

Now, let me listen to the witnesses what they have deposed in their evidence.

P.W.1, the victim girl during her examination-in-chief has stated that one incident occurred with her but she failed to say how long ago the incident took place but the said incident took place at night but cannot say the exact time. It further reveals that at that time she along with her brother were lying in their house and then Nilkamal covered her brother with a katha (quilt). Thereafter Nilkamal dragged the victim girl in the bush outside of their house and put off her dresses. Thereafter he laid her down and thereafter he put his penis inside this witness. The victim girl sustained pain and started yelling. Then the accused pressed her mouth and threatened her to kill if she raised alarm. Her parent rushed there with alarm and then she narrated the incident to all. Subsequently police came to their house. Thereafter Nilkamal fled

away leaving her apart when her mother raised her (mother) voice. The victim girl narrated the incident to police. She also went to hospital where she was medically examined. Thereafter she had been in the court and narrated the incident to a person who jotted down the same and victim girl put signature on it. She proved her signature on the 164 Cr.P.C. statement marked as exhibit. She also identified the accused on dock by pointing her finger on him. She was interrogated by police in her house.

In her cross-examination she deposed that Nilkamal used to live in their locality and thus she identified him. She further deposed that there is a road in front of her house and villagers used to travel in that road and the house of Surja Sen situated behind her house and there is a pathway to go to their house and there are houses of other villagers within the vicinity of their house. She has further deposed that local villagers flocked in the place of occurrence hearing her screaming. The victim girl used to visit the houses of her neighbours and is acquainted with them. She has further deposed that mother of Om, Surya doctor and the boudies of nearby shops flocked there. She replied that when Nilkamal dragged her out then she sustained pain in her hands and legs. She further stated that she was not tutored by police about what to say in the court. She has further deposed that she had not sustained any bleeding injury for such act but she sustained pain in her private part. Some suggestions were put to her to which she replied in the negative.

The P.W. 2, is the complainant and the mother of the victim body. It reveals from her evidence that she lodged the written complaint with Falakata against Nilkamal Barman about one and half year ago. It further reveals from her evidence that on that day she had gone to a nearby shop at night at about 7:00 p.m. beside her house to bring some articles for her siblings and she left behind her nine years old daughter and five years old son in the house. Her husband had gone to his place of employment. The mother of the victim girl met the accused Nilkamal on her way to the shop. The accused asked her as to where she was going then this witness replied that she was going to a nearby shop. After her returning she found her son in the house but her daughter was absent. She asked the whereabouts of her daughter to her son and he replied that Nilkamal dragged away her daughter out from the house. Then this witness started yelling and then Nilkamal fled away leaving her daughter in the nearby bush behind her house. This witness asked her daughter as to why Nilkamal took her daughter and what he did. Then the victim girl replied that Nilkamal laid her down after denuding her and further told that he (Nilkamal) put his penis into her private part. She also reported that she sustained pain at her vagina for such act. Local people assembled there hearing her screaming and she reported to the villagers and the local panchayet who advised her to lodge a case before the police. This witness proved her signature on the written complaint marked as exhibit and also proved her signature on the

medical report also marked as exhibit. She further deposed that her daughter made statement before the Magistrate and she also proved her signature on the seizure list relating to seizure of birth certificate and Aadhar card of her daughter, marked as exhibit. She further identified her signature on the carbon copy of seizure list relating to seizure of one colour panty of her daughter marked as exhibit. She identified the accused on dock.

During her cross-examination she deposed that she went to P.S. at 9:00 p.m. on that very date and narrated the entire incident to the police after reaching there and her daughter was taken to the hospital on that very date. She further stated that on returning from the shop she first enquired her son regarding the absence of her daughter. It further reveals from her evidence that she met Nilkamal on the kaccha road and the house of Nilkamal is intervened by 4/5 houses from her house. It further reveals from her evidence that she left her house for grocery at about 7:00/7:30 p.m. and returned to her home after 10/15 minutes and started yelling in front of her house. This witness asked her son about her daughter and her son replied that Nilkamal entered into their house and took his elder sister by pressing her with hand in the jungle and this witness found her son inside the room. It further comes out from her evidence that her son did not shout as Nilkamal threatened him not to shout or scream and if he would shout or scream then Nilkamal would murder her son. This witness further deposed that her daughter wore frock

and pink colour sweater and black colour 'garam pant' at the time when they went to the P.S by pickup van and further stated that at the time when she went to grocery shop her daughter wore the same dress. This P.W.2 again deposed that Police seized one yellow colour undergarment of her daughter from her. This witness was undergone a lengthy cross-examination but nothing fruitful comes out of it.

The P.W.3 Kali Barman was declared hostile by the prosecution and she was cross examined by prosecution but nothing, save and except denial comes out.

Defence also put two questions to her where she stated that the house of Nilkamal is just adjacent to their house but this witness does not reside in that house and resides in the house intervened by 2/3 houses from the house of Nilkamal.

The P.W.4 is Ex-SI Humayun Kabir. It reveals from his evidence that on 04.01.20 he was the duty officer of Falakata P.S and on that day as per instruction of his superior officer, he issued a requisition and sent the victim girl aged 9 years to Falakata Super Specialty hospital by lady constable Basanti Oraon. He proved his signature on the said requisition marked as exhibit.

In his cross-examination he stated that no complaint was submitted before him on that date.

The P.W.5 is lady constable Basanti Oraon. It reveals from her evidence that on 04.01.20 as per instruction of their duty officer, she took the victim girl aged about 9 years to Falakata Super Specialty hospital for her medical examination. After completion of medical examination, the Medical Officer handed over the medical certificate, vaginal swab and pant of the victim girl and this witness handed over the same to the IO of the case who seized those articles by preparing a proper seizure list where this witness put her signature as witness. She proved her signature on the seizure list marked as exhibit.

Her cross-examination is declined.

The P.W.6 is Malati Chanda. This witness was also declared hostile by the prosecution and cross-examined where she denied her statements made before the I.O.

She was cross examined by the defence where she stated that on 04.01.20 at about 7:00 p.m. she was in her house and she did not hear noise of shouting either in the house of the complainant or surrounding her house.

The P.W.7 is the father of the victim girl and husband of the complainant. It transpires from his evidence that one incident happened with his daughter two and half years ago in the bank of pond of their hose in the evening and on the date and time of incident his wife went to the shop leaving his son and daughter in the house. On her way she met Nilkamal who

asked her where she was going. After returning at home, his wife found his daughter is missing and his son was there in the room. Then his wife asked his son regarding whereabouts of his daughter then son replied that Nilkamal entered into their house and by pressing mouth of the victim girl, Nilkamal took away his daughter. His wife then shouted and screaming and went to eastern side of their house where there is bamboo groves and jungle and found his daughter standing there in naked condition and on seeing his wife, Nilkamal fled away from the spot. When this witness was returning at his house, he heard some noise of shouting coming out from his house and when he reached his house he found his wife was shouting. This witness took his wife and daughter to his house and then his daughter narrated before her parents that NilKamal made her naked and pressed on her private part by his penis by inserting the same on the private of his daughter. It further reveals that neighbour namely, Malati Chanda, Kali Barman rushed to the spot and this witness informed them about the incident. This witness proved his signature on the seizure list relating to the seizure of wearing apparels of his daughter marked as exhibit. He further deposed that at the time of incident his daughter was ten years old. This witness identified the accused on dock.

This witness was undergone a lengthy cross-examination by the defence but nothing fruitful came out of that.

The P.W.8 Pradip Pal is the videographer who videographed the process of recording 164 Cr.P.C. statement of the victim by the Ld Magistrate. After completion of his videography, he prepared a CD and handed over the same to the I.O. He proved his signature on the statement u/s.164 Cr.P.C, as videographer and proved his signature thereon marked as exhibit.

During his cross-examination he admitted that he does not have any specialized certificate and further admitted that the I.O. did not prepare any seizure list relating to the seizure of said CD and the CD does not contain his signature and seal.

The P.W.9 is Dr.Ranjan Hazra, the medical officer, who examined the victim girl. It reveals from his evidence that on 04.01.20 he examined the victim girl aged about 9 years in connection with G.D.E., brought and identified by lady constable Basanti Oraon attached to Alipurduar P.S. accompanied by her mother. He further deposed that on examination, he did not find any mark of injury on the entire body and private part of the victim girl. He proved the medical report of the victim girl prepared by him in his own hand writing and proved the same. This witness also did not find any injury all over the body of the victim girl. He proved the injury report and his signature thereon marked as exhibit.

During cross-examination, he deposed that if a guy of 22 years forcefully committed penetrative sexual assault upon a 9 years old girl then there ought to be an injury mark on the private part of the victim girl and further admitted that in the same case if a guy tried to commit penetrative sexual assault upon a 9 years old girl then there may be a injury mark on the private part of the victim girl. He further stated that as he did not find any injury mark on the private part of the victim girl, that is why he did not give any opinion in the same medical report.

The P.W.10 Badal Sarkar is the scribe of the complaint. It reveals from his evidence that on 05.01.20 he jotted down a complaint as per instruction of the complainant and after writing the same he read over and explained the contents of the complaint in Bengali to the complainant and thereafter she put her signature thereon and thereafter this witness put his signature on the complaint as writer of the same. This witness proved the complaint and his endorsement with signature marked as exhibit.

During his cross-examination he admitted that he jotted down the complaint as per statement of the complainant. He further deposed that he has no personal knowledge about the incident.

The P.W.11 SI Arup Baidya, the investigating officer. It reveals from his evidence that on 05.01.20 he was posted at Falakata P.S. as Sub-Inspector of police and on that date, the then I.C. Debduutta Bannerjee received a written

complaint from the complainant and thereafter started this case. He proved the endorsement on the complaint written by Inspector Debdutta Banerjee as he knows his signature and handwriting, marked as exhibit. He also proved the formal FIR and the signature of Inspector Debdutta Banerjee therein marked as exhibit. This witness deposed that the VG and her mother came to the P.S. on 04.01.20 and narrated the entire incident before the duty officer but on that date no complaint was received from the mother of the victim girl and duty officer informed the matter to I.C. and as per instruction of the then I.C., lodged a G.D.E. and sent the VG to Falakata hospital for her medical examination accompanied by lady constable Basanti Oraon. This witness proved his signature on the seizure list marked as exhibit. He also proved the rough sketch map with index also marked as exhibit. On the same date, i.e., on 05.01.20 this witness arrested the accused Nilkamal Barman and on the next day forwarded him before the court. He also recorded statement of the VG by LSI Trishna Limbu and conducted capability test of the accused. He also prayed for Police Custody of the accused which was allowed for three days. He received a mass petition from local people on 14.01.20 and on the next date, he sent the seized alamats to RFSL, Jalpaiguri for chemical examination. Finally, after completion of investigation, he submitted charge sheet against the accused Nilkamal Barman. He identified the accused on dock.

During his cross-examination he admitted that he prepared the rough sketch map with the help of the complainant. This witness has undergone a lengthy cross-examination but nothing fruitful comes out from his cross-examination.

These are the prosecution evidence led by P.W.1 to P.W.11.

As stated hereinbefore, the defence neither adduced any oral evidence nor any documentary evidence to rebut the prosecution case or in support of the defence case. From the trend of cross-examination of the defence, it has come out that the prosecution story is totally false and far away from the truth.

I have heard arguments of both sides.

Ld. Special P.P, in course of his argument, submitted that in this case the victim girl is the prime witness upon whose evidence only, conviction may be warranted. He further submitted that normally the evidence of the victim girl need not be corroborated by evidence of other witnesses in a POCSO case. In the present case, according to him, the evidence of P.W.1 has been corroborated by her mother, P.W.2 and her father, P.W.7. The victim girl remained uniform in her statement before the Ld. Magistrate as well as the Medical Officer and the police officer. She also did not deviate from her previous statement in the Court and her veracity and trustworthiness has not been shaken even being undergone a lengthy cross-examination by defence.

Ld. Special P.P further submitted that the prosecution has proved his bounden duty to establish the basic ingredients of committing an offence u/s 6 POCSO Act and now the onus shifts upon the accused person to rebut the foundational facts u/s 29 of POCSO Act. So, the accused is duty bound to disprove the allegation of sexual assault as alleged. In the context, Ld. Special P.P. drawn my attention to Section 106 of Indian Evidence Act as well as Section 29 of the POCSO Act and submitted that the accused miserably failed to discharge his burden. He further submitted that there may be some minor omissions or contradictions but that cannot go to the root of the prosecution case and such minor omission or contradiction must be discarded. He ultimately prayed for punishment of the accused for the interest of society at large.

Ld. Defence Counsel, on the other hand ,argued that there are many contradictions in the evidence of the victim girl and other witnesses in relation with the incident. Moreover, there is no preparation of committing the offence in the mind of the accused and his motive has not been well established. He further advanced his argument that the medical examination report of the victim girl reflects no injury on her private parts. He therefore, raised his voice for acquittal of the accused person.

I have considered rival arguments and carefully perused the case record together with evidence on record and the exhibits.

Let me first consider whether the victim girl was a minor as defined in Section 2(d) of the POCSO Act on the alleged date of incident or not. It is the prosecution case that the victim girl was then a minor girl of 9 years. The defence never ever challenged the minority of the victim. Considering all the evidence this Court has no hesitation to hold that the victim was below 18 years on the date of incident.

During course of argument Ld prosecution contended that in the present case the version of P.W1 (victim girl) is totally corroborated by the evidence of her mother P.W.2. This P.W. 2 stated that she went to the grocery shop leaving behind her minor daughter and minor son in the house and on her way she met the accused Nilkamal who asked her about her destination. Thereafter when she returned after 10/15 minutes she did not find her daughter in the house and asked her son who replied that Nilkamal dragged his sister into the bamboo bush situated behind their house. Ld prosecution further argued that defence did not cross examine the P.W.2 on the point that she never met Nilkamal on the road which is an admission of the fact that Nilkamal was proceeding on the opposite direction towards her house where the complainant was going. After knowing that Nilkamal took her daughter, the P.W2 began to shout and then Nilkamal fled away. Defence also did not cross examine the witness on this point. Therefore, presence of the accused on the

spot is admitted. Moreover, non-cross-examination of an important witness on vital point contemplates implied admission of the fact in issue.

It is further argued by the prosecution that the victim girl herself narrated the entire incident by stating that her mother went to grocery shop leaving her and her younger brother in the house who were lying on bed. Thereafter Nilkamal came to their house, covered her brother with a katha and dragged her in the bush outside their house and put off her dresses and then laid her down and thereafter he put his penis inside the private part of the victim girl for which she sustained pain and she was yelling. Her mother rushed there and the victim girl narrated the incident to her. Her father, the P.W. 7 also corroborated the evidence of the victim girl and the complainant by stating that at that time he was returning his home when he heard some noise of shouting coming out from his house and then he rushed to his house and found his wife was shouting. His daughter narrated before this witness (P.W.7) and her mother that Nilkamal made her naked and pressed on her private part by his penis by inserting the same on the private part of his daughter. As per contention of Ld prosecution, defence did not cross examine the witnesses on this point and only suggestions were put to them to which they replied in the negative. According to Ld prosecution only suggestions without any specific question on the point, consequently raises an inference of admission of the act of the accused.

Ld prosecution further advanced his argument with the submission that the intention and subsequent act / conduct of the accused is very vital for proving his guilt. He contemplated the accused met the mother of the victim girl on the road when she was going to grocery shop. The accused asked the mother of the victim girl (P.W2) as to where she was going. In reply the P.W.2 stated that she was going to a nearby shop. Therefore, the accused came to know very well from the P.W.2 that there was nobody in the house of the victim girl and she remained alone. Ld prosecution again argued that as soon as the accused came to know about absence of any body in the house of the victim girl, he prepared his mind and plan and with mal-intention. He entered into the house of the victim girl and there he covered the minor brother of the victim girl with a katha and dragged the victim girl to a nearby bamboo groves. Therefore, the very intention of the accused person prompted him to enter into the house of the victim girl and to drag her to the bamboo groves when it is within his full knowledge that there was no body in the house to save the victim girl or remain witness of his evil act. Ld prosecution further contended that the accused found an opportunity of committing the offence and he utilized that opportunity in its fullest and committed the crime by taking advantage of loneliness of the victim girl. Therefore, the motive, intention and preparation for committing the offence which remained in the core of the mind of the accused is relevant under section 8 of Evidence Act to

establish the prosecution case and it adds an extra mileage to the version of the prosecution story.

It has been argued by the Ld. Defence counsel that the prosecution case must fail on the ground that the medical evidence garnered on record is too short to prove an offence u/s 5 of POCSO Act. In other words, Section 5 of POCSO Act envisages the offence of 'aggravated penetrative sexual assault' where penetration is the most vital ingredient. According to him, the medical report of the victim shows no injury mark on her private part and therefore necessary presumption can easily be drawn that no such offence of aggravated penetrative sexual assault was committed at all with the victim girl.

To counter such submission of the Ld. Defence Counsel, Ld. prosecution referred the evidence of P.W.9 Dr. Ranjan Hazra and argued that although, the Medical Officer conducting medical examination of the victim girl, did not find any injury all over the body of the victim girl but that does not rule out commission of any penetrative sexual offence upon the victim girl. In other words, accused, when penetrates his penis into the vagina of a girl aged below 18 years, commits an offence of penetrative sexual assault. Commission of penetrative sexual assault in this particular way amounts to commission of rape within the meaning of Section 375 IPC.

According to Section 5 (m) of POCSO Act, if any penetrative sexual assault is caused upon a minor (whether boy or a girl) below 12 years of age,

it comes within the purview of aggravated penetrative sexual assault which is punishable under Section 6 of the said Act.

Modi in Medical Jurisprudence and Toxicology (21st edition) at page 369 observed :

“Thus, to constitute the offence of rape, it is not necessary that there should be complete penetration of penis with emission of semen and rupture of hymen : partial penetration of the penis within labia majora or the vulva or pudenda, with or without emission of semen, or even an attempt at penetration is quite sufficient for the purpose of the law. It is therefore quite possible to commit legally, the offence of rape without producing any injury to the genitals or leaving any seminal stains. In such a case, the medical officer should mention the negative facts in his report, but should not give his opinion that no rape had been committed. Rape is crime and not a medical condition. Rape is a legal term and not a diagnosis to be made by the medical officer treating the victim. The only statement that can be made by the medical officer is that there is evidence of recent sexual activity. Whether rape is occurred or not, is a legal conclusion, not a medical one.”

In this regard Ld Special P.P. referred the decision passed in **Criminal Appeal No. 50 of 2022** by Hon’ble Justice Amit Bansal, delivered on **14.08.2023 (Ranjeet Kumar Yadav Vs. State of NCT of Delhi)**, the fact of

which is similar to the present case in hand. I am reproducing the relevant portion of that judgment.

In para 12 of the said judgment, the Hon'ble Court observed :

“12. In my considered view, the statement of the victim recorded under section 164 of the Cr.P.C. cannot be read in isolation and has to be considered in totality of the given facts and circumstances and due weighage has been given to the age of the victim, which was four and a half years at the time of incident. There is no doubt that the victim has been consistent in all her other statements and has unequivocally stated that the appellant had inserted his finger in her private parts. In fact, in her testimony before the court she went on to say that this act had caused her a lot of physical pain. Thus, the contradiction in her statement under section 164 of the Cr.P.C. is of a minor character and does not make her testimony unreliable. The trial court has correctly observed that the victim was very young at the time of incident and minor contradictions cannot be a ground to disbelieve her testimony.

.....

14. The Supreme Court in Phool Singh has held that the conviction can be on the basis of the sole testimony of the prosecutrix when the deposition is found to be trustworthy and credible and no independent corroboration is required for the same. In my considered view, the statement of the victim is

reliable and trustworthy has also withstood cross-examination on this aspect.”

In paragraph 18 of the aforesaid judgment, the Hon’ble Court has observed :

“18. The trial court has correctly observed that injury on the private parts in cases of sexual offences depends on various factors such as, depth of insertion, among others. It is not necessary that in every case there would be an injury caused. Therefore, mere absence of injuries cannot be a ground to hold that penetrative sexual assault did not take place.

19. It also has to be borne in mind that under section 29 of the POCSO Act, there is a statutory presumption raised against the accused in respect of offences under section 3,5,7 and 9 of the POCSO Act. In the present case, the accused has failed to successfully rebut the aforesaid presumption by leading evidence or discrediting the evidence of the prosecution.

20. The appellant has not been able to shake the version of the prosecution and the prosecution has successfully proved its case beyond reasonable doubt.

21. In view of the discussions above, I find no infirmity of the impugned judgement convicting the appellant for the offences under section 342/363/376 of the IPC and section 6 of POCSO Act. In view of the above, there is no merit in the appeal and the same is dismissed.”

Coming into the case in hand, the P.W.9 the doctor examining the victim girl, in his examination of the victim girl, did not find any injury on the body or private part of the victim girl. In consonance with the above observation of the Criminal Jurisprudence, presence of injury mark or rupture of hymen or emission of semen are not the criteria of committing the offence of penetrative sexual assault in the changed scenario of amendment in the definition of Section 375 IPC i.e. rape and the same criteria has been incorporated in the POCSO Act also in order to raise a parity between the two Acts.

It is now well accepted principle of law that conviction can be founded on the testimony of the prosecutrix (victim girl here) alone unless there are compelling reasons for seeking corroboration. It is also well accepted principle of law that corroboration as a conviction for judicial reliance on the testimony of the prosecutrix is not requirement of law but a guidance of prudence. A woman or a girl subjected to sexual assault is not an accomplice to the crime but is a victim of another person's lust and it is improper and undesirable to test her evidence with a certain amount of suspicion treating her as if she were an accomplice.

In **Vasudev Vs. State [(2018 Cr.L.J (NOC) 388 (Kar)]**, the victim did not make any statement before the Court but this fact did not stand in the way of recording conviction as, in the opinion of High Court, the silence of the

victim in presence of the accused “may be outcome of fear and trauma”. Held further that mere absence of physical injury of victim’s body was not sufficient to absolve the accused from charge of penetrative sexual assault.

In this regard, I would like to reproduce the observation held by the Hon’ble Supreme Court in **Ratan Sinh Dalsukhbhai Nayak Vs. State of Gujrat** reported in **AIR 2004 SC 23**. In paragraph 6 and 7 of the said decision it has been laid down as hereunder :

“6. *Indian Evidence Act, 1872 (in short the Evidence Act) does not prescribe any particular age as a determinative factor to treat a witness to be a competent one. On the contrary, section 118 of the Evidence Act envisages that all persons shall be competent to testify, unless the court considers that they are prevented from understanding the questions put to them or from giving rational answers to these questions, because of tender years, extreme old age, disease-whether of mind or any other cause of the same kind. A child of tender age can be allowed to testify if he has intellectual capacity to understand questions and give rational answers thereto. This position was concisely stated by Brewer, J. in Wheeler Vs. United States (159 US 523). The evidence of a child witness is not required to be rejected per se; but the court as a rule of prudence considers such evidence with close scrutiny and only on being convinced about the quality thereof and reliability can record conviction, based thereon*

7. In *Dattu Ram Rao Sakhare Vs. State of Maharashtra* (1997 (5) SCC 341) it was held as follows :

“A child witness if found competent to depose to the facts and reliable one such evidence could be the basis of conviction. In other words, even in absence of oath the evidence of a child witness can be considered under section 118 of the Evidence Act provided that such witness is able to understand the answers thereof. The evidence of a child witness and credibility thereof would depend upon the circumstances of each case. The only precaution which the court should bear in mind while assessing the evidence of a child witness is that the witness must be a reliable one and his/her demeanour must be like any other competent witness and there is no likelihood of being tutored”.

The decision on the question whether the child witness has sufficient intelligence primarily rests with the trial judge who notices his manners, his apparent possession or lack of intelligence and said judge may resort to any examination which will tend to disclose his capacity and intelligence as well as his understanding of the obligation of an oath. The decision of the trial court, may, however, be disturbed by the higher court if from what is preserved in the records, it is clear his conclusion was erroneous. This precaution is necessary because child witnesses are amenable to tutoring and often live in a world of make beliefs. Though it is an established principle

that child witnesses are dangerous witnesses as they are pliable and liable to be influenced easily, shaken and moulded, but it is also an accepted norm that if after careful scrutiny of their evidence the court comes to the conclusion that there is an impress of truth in it, there is no obstacle in the way of accepting the evidence of a child witness”.

It is manifestly clear from the deposition of this P.W.-1 that her evidence is not based on hearsay, but on direct knowledge. Learned Magistrate recorded her statement u/s 164 Cr.P.C. after testing her competency to give rational answers to the questions put to her. She was also tested by the Ld. Trial Judge recording her deposition. She appears to be reliable, trustworthy and confident. Her evidence is cogent, consistent, reliable, uniform and trustworthy. Therefore, there cannot be any earthly reason to discard her evidence.

Learned Defence Counsel tried to draw my attention to the answers given by the P.W.s during their cross-examinations which according to him, totally deviated from the Prosecution case. He emphasized upon some contradictions made by the P.W.s during their evidence. To consider the matter, one thing should be made clear that from the recording of evidence it is apparent that while recording contradictions the rules were not adhered with.

Hon'ble Supreme Court while dealing with the same issue in paragraph 18 of its Judgement rendered in the case of **V.K. Mishra & Another – Versus – State of Uttarakhand & Another** (In Criminal Appeal No. 1247 of 2012), has laid down as hereunder:

“18. Under Section 145 of the Evidence Act when it is intended to contradict the witness by his previous statement reduced into writing, the attention of such witness must be called to those parts of it which are to be used for the purpose of contradicting him, before the writing can be used. While recording the deposition of a witness, it becomes the duty of the Trial Court to ensure that the part of the Police statement with which it is intended to contradict the witness is brought to the notice of the witness in his cross-examination. The attention of witness is drawn to that part and this must reflect in his cross-examination by reproducing it. If the witness admits the part intended to contradict him, it stands proved and there is no need to further proof of contradiction and it will be read while appreciating the evidence. If he denies having made that part of the statement, his attention must be drawn to that statement and must be mentioned in the deposition. By this process, the contradiction is merely brought on record, but it is yet to be proved. Thereafter when investigating officer is examined in the Court, his attention should be drawn to the passage marked for the purpose of contradiction, it will then be proved in the deposition of the investigating

officer who again by referring to the Police statement will depose about the witness having made the statement. The process again involves referring to the Police statement and culling out that part with which the maker of the statement was intended to be contradicted. If the witness was not confronted with that part of the statement with which the defence wanted to contradict him, then the Court cannot suo moto make use of statements to Police not proved in compliance with Section 145 of Evidence Act i.e., by drawing attention to the parties intended for contradiction”.

True it is, there are some minor omissions or discrepancies. It is settled law that while evaluating the value of evidence the Court should bear in mind that cross-examination of witness mostly in our society is an uneven tussle in between a very learned person and ignorance. If we emphatically look into the matter such type of mistake may be found in every case.

In State – Versus – Krishna [Reported in (2011) 1 SCC (Cri) 381]
Hon’ble Supreme Court held that :

“In a criminal case, the Prosecution case may suffer from inconsistencies here and discrepancies there, but there is a short coming from which no criminal case is free. The main thing to be seen is whether those inconsistencies go to the root of the matter or pertain to insignificant aspects thereof. In the former case, the defence may be justified in seeking advantage of incongruities appearing in the evidence. In the latter, however, no such

benefit may be available to it. Therefore, it is the duty of the Court to separate false from the truth as in the deposition of the witnesses there are always normal discrepancies, however honest and truthful they may be and these discrepancies are due to normal errors of observation, normal errors of memory due to lapse of time, due to mental disposition, shock and horror at the time of occurrence and threat to the life. In sifting the evidence, the Court has to attempt to separate the chaff from the grains in every case and this attempt cannot be abandoned on the ground that the case is a baffling unless the evidence is really so confusing or conflicting that the process cannot reasonably be carried out”.

It is also settled law that normal discrepancies should be avoided because reproduction of the evidence after lapse of about 10-15 years through human process is always run with the risk of forgetfulness or exaggeration. But in my opinion, that will not give any bonus to the defence.

The Hon'ble Apex Court in **Hardeep – Versus - State of Haryana (Reported in AIR 2002 SC 3081)** has been pleased to set out the precedent as follows :

“In Criminal case, the Court cannot proceed to consider the evidence of the Prosecution witnesses in mechanical way. The probabilities and the normal course of the human conduct of the prudent person are some of the

factors which are always kept in mind while evaluating the merit of the case. No fix formula can be adopted”.

It needs no emphasis that a victim witnessing the incident is not supposed to narrate the finer details of the entire incident in a parrot like manner. The normal course of the human conduct would be that while narrating a particular incident, there may occur minor discrepancies, such discrepancies in law may render credentials to the depositions. Parrot like statements are disfavoured by the Courts.

The Hon’ble Apex Court in **Ousu – Versus – State of Kerala** [Reported in **(1974) 3 SCC 767**] held that minor variations in the accounts of the witnesses are often the hallmark of the truth of their testimony.

In **Jagdish – Versus – State of Madhya Pradesh [(1981) SCC (Cri) 676]**, the Hon’ble Apex Court has held that when the discrepancies were comparatively of a minor character and did not go to the root of the Prosecution story, they need not be given undue importance. Mere congruity or consistency is not the sole test of truth in the depositions. These discrepancies do not go to the root of the Prosecution case and does not shake the basic version of the witnesses because in a melee, the power of observation of all the witnesses may not be same for two reasons, firstly, all of them were taken aback and secondly attention of different witnesses have been engaged on different accused or their different acts. Even if, all the acts

of the accused was not noticed by witnesses then it is not proper to hold that P.W.s exaggerating the witnesses by implicating all the accused persons, that cannot be a ground for rejection of entire evidence.

There is no reason to disbelieve the statement of the victim girl and reaction of a 9 years old girl with whom such an incident takes place. Hence, contention of the victim girl did not raise an alarm and none of the local persons witnessed the incident or came to rescue the victim girl, cannot be accepted.

The next point require to be discussed with regard to the credibility of the related witnesses. In th girl an they are her parents. The term 'related' is not equivalent to term 'interested'. An interested witness is he who wants to see a person to be punished. In other words, the term 'interested' postulates that the person concerned must have some direct interest in seeing that the accused person is somehow or other convicted, either he has some animus with the accused or for other reason. A witness can be called interested only when he or she derives some benefit from the result of the litigation. A witness who is a natural one and is the only possible eye witness of a case, cannot be said to be interested.

The law says that the testimony of a related witness cannot be discarded mechanically because relation of witness cannot be a ground to determine the credibility of the testimony.

Ld. Prosecution submitted that the evidence of the witness is to be weighed in determining its truthfulness and not the relation of the witness which can be taken into consideration. By drawing attention of the cross-examination of the P.W.1, he argued that the P.W.1 remained uniform throughout her cross-examination and her veracity cannot be shaken by the defence.

In this regard, I would like to refer the case reported in **1989 Cri.L.J SC 799. [Vahula Bhusan Alias Vahuna Krishnan - Vs – State of Tamil Nadu]**.

In Para no.6 of the above mentioned case, the Hon'ble Court observed that

“ Although it is not the principle of law that a conviction cannot be sustained on the testimony of a single witness, yet it is well known principle of criminal jurisprudence that before convicting a person on the sole testimony of a witness, the Court must have implicit faith and reliance on his testimony. Only if the said sole witness is found to be interested, hostile to the accused, unreliable, not firm and discrepant, the benefit of doubt should be given to the accused. In the instant case when we apply the above test, we find that the evidence unfurled through P.W.1 is convincing, trustworthy and is amply corroborated by the medical evidence in this case as discussed above. In this view, we have no hesitation to hold that the sole witness P.W.1 who have seen

the occurrence in this case has satisfactorily withstood the strenuous cross-examination that have been done on behalf of the second accused – appellant herein and nothing material has been elicited in his cross-examination so as to discredit his evidence. We have no hesitation to hold that the prosecution has established that it was A 2 the appellant herein, who had caused the fatal injuries on the deceased with M. O. 3. In the instant case the offence under section 302 Indian Penal Code has been proved to the hilt by the prosecution against A 2, the appellant herein”.

Ld. Prosecution further draws my attention to the case reported in **Hari Obula Reddy and others – Vs – State of Andhra Pradesh** reported in **(1980) Cri.L.J. 1330**, it has been observed by the Hon’ble Apex that a witness interested in conviction of accused is not necessarily an unreliable witness. Ld. Prosecution further submits that interested evidence is not necessarily unreliable evidence even partisanship by itself is not a valid ground for discrediting or rejecting sworn testimony. He further referred the case in **Chittar Lal Vs. State of Rajasthan** reported in **(2003) AIR (SC) 3590** and submits that Hon’ble Apex Court held in that case that the legislative recognition of the fact that no particular number of witnesses can be insisted upon is amply reflected in Section 134 of the Indian Evidence Act and administration of justice can be affected and hampered if number of witnesses were to be insisted upon. It is not seldom that a crime has been

committed in the presence of one witness, leaving aside those cases which are not of unknown occurrence where determination of guilt depends entire on circumstantial evidence and if plurality of witnesses would have been the legislative intent, cases where the testimony of a single witness only could be available, in number of crimes offence would have gone unpunished. Therefore, it is the quality of evidence of the single witness whose testimony has to be tested on the touchstone of credibility and reliability and if the testimony is found to be reliable, there is no legal impediment to convict the accused on such proof. Therefore, it is the quality and not the quantity of evidence which is necessary for proving or disproving a fact.

In the instant case, on perusal of the P.W.s, in my opinion all the probable factors echoes in favour of the prosecution as regards commission of offence punishable under section 6 of the POCSO Act, Having considered the evidence on record carefully I do not have any hesitation to hold that the prosecution has been able to prove the charge punishable u/s 6 of the POCSO Act. There is no doubt that the genesis of the case is proved by the prosecution side, in order to prove the guilt of the accused person.

Now, the question comes whether prosecution is entitled to get the benefit of Section 29 of the POCSO Act or not.

Section 29 of the POCSO Act gives a rider of the prosecution. The Section speaks as follows :-

“Where a person is prosecuted for committing or abetting or attempting to commit any offence under sections 3, 5, 7 and section 9 of this Act, the Special Court shall presume, that such person has committed the offence, unless the contrary is proved.”

As per Section 29 of the POCSO Act, presumption is against the accused and he has to prove that he is innocent after discharging the onus of proof by the prosecution.

It is the settled law that Section 29 of the POCSO Act is only a rule of shifting the evidential burden in a prosecution. Generally, in a criminal trial, the prosecution would fail even if the accused does not adduce any evidence, or if the evidence adduced by the prosecution do not prove beyond reasonable doubt the guilt of the accused. It would be most improper, if the presumption available in Section 29 of POCSO Act is straightway made applicable in a case even in absence of foundational or basic evidence being led by the prosecution which is reasonable and probable.

In the instant case, on perusal of the evidence of P.W.s, in my opinion all the probable factors echoes in favour of the prosecution as regards commission of offence punishable under section 6 of the POCSO Act. Having considered the evidence on record carefully I do not have any hesitation to hold that the prosecution has been able to prove the charge punishable u/s 6 of

the POCSO Act. There is no doubt that the genesis of the case is proved by the prosecution side, in order to prove the guilt of the accused person.

In concurrence of my above discussion, I am not inclined to give bonus of benefit to the accused person. The Hon'ble Apex Court in catena of judgement held that there is no standard of proof beyond reasonable doubt. The concept of probabilities and degree of it cannot obviously express in terms of units constitute proof beyond reasonable doubt. Moreover, since the offence punishable u/s 6 of POCSO Act, the provision of Section 29 of POCSO Act can be relied upon. In this case, in so far as the prosecution has adduced evidence to prove the foundational facts to be established by them in a case of this nature, as such it is to be presumed that the accused is guilty of the offence alleged against him and it is for the accused to rebut the said presumption that he is not guilty which he failed to establish either by adducing evidence or in his examination u/s 313 Cr.P.C. Defence also did not take the plea that the instant case was an outcome of previous enmity or family dispute or rivalry.

The punishment for the offence u/s 6 POCSO Act prescribed as rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person and shall also be liable to fine, or with death.

The penal section under which the accused person is held guilty, disentitles him from getting any benefit under the Probation of Offenders Act, 1968.

Hence it is

ORDERED

that the accused person namely, Nilkamal Barman is found guilty for committing offence under section 6 of Protection of Children from Sexual Offences Act, 2012 and he is convicted in terms of Section 235(2) of Code of Criminal Procedure.

The convict is taken into custody.

The convict be produced before this Court on 15.03.2024 at 12.30 pm, for hearing on the point of sentence. In the meantime, the convict be kept in segregation for reflection of his mind.

The Judgement is delivered in open Court on this Thursday, the 14th day of March, 2024 under my seal and signature.

Dictated & corrected
by me

Judge, Special Court,
under POCSO Act,

(PAPIYA DAS)
Additional Sessions Judge
-cum-Judge, Special Court
under POCSO Act,
Alipurduar.

Alipurduar.

Later on 15.03.24
at 1.00 pm.

Convict Nilkamal Barman is produced from J/C.

Ld. Special P.P and Ld. Advocate of the convict are also present.

He is taken for pronouncement of sentence after hearing the submission of the convict on the point as to why adequate punishment should not be awarded to him. I ask the convict “ Are you in a fit state of mind to give reply before the Court”, to which he answered in the positive.

I heard the convict on the point of sentence as required by Section 235(2) of the Criminal Procedure Code.

The Convict submits that “amar kichu baler nei”. Being asked he stated that he has nothing more to say.

Ld. Advocate for the convict while endorsing the submission of convict, submits that the convict has no criminal antecedent. He further submits that considering the future of the convict, a lenient view may be taken

while imposing punishment on him and minimum punishment may be imposed on him.

Ld. Special P.P submits that in the present case, there is no scope for this Court to take any lenient approach as, in the present case, the convict sexually harassed a minor girl, only 9 years of age and such type of offence is an offence against the whole society. He further submits that the future of the victim has been destroyed on account of the offence committed upon her and in view thereof, adequate punishment prescribed in law should be imposed in the present case.

Considered the submission of the convict, Ld. Special P.P and Ld. Advocate for the convict.

So far as the circumstances are concerned in the present case, a minor girl was sexually assaulted by the convict. There is no denial that on account of such an offence, the entire future of a young girl has been seriously affected.

It has been submitted by the convict that he has nothing to say before the court. He looks to be fit and healthy. In my considered view, the condition as stated by the convict are sympathetic in nature, has effect that may be taken into account to impose lesser punishment than the prescribed highest punishment. This Court is not oblivious to the saying that 'every saint had a past and every sinner has a future'. But at the same time, this Court is of opinion that if

lenient view is taken against the offence committed, a wrong signal will go to the society which have an adverse effect. Further, I hold that this is not a case falling under the category of ‘rarest of the rare’ where the maximum sentence of death may be awarded.

Considering the over all circumstances, in my opinion, in the present case, the convict must be awarded sentence of Rigorous imprisonment for twenty (20) years along with imposition of fine of Rs.10,000/- (Ten thousand) for the offence punishable under section 6 of the POCSO Act.

Hence it is

ORDERED

that the convict Nilkamal Barman is sentenced to suffer Rigorous imprisonment for twenty (20) years and to pay fine of Rs.10,000/- (Ten thousand), i.d. S.I for 2 (two) months for the offence punishable under section 6 of POCSO Act as per Section 235(2) of the Cr.P.C.

The period of detention undergone by the convict as U.T.P. during investigation and trial shall be set off with the period of sentence under section 428 Cr.P.C.

If fine is paid by the convict, then 50% of the fine amount shall be paid to the victim girl. The rest 50% will be deposited with District Legal Services Authority, Alipurduar.

The victim is also entitled to have compensation as per Victim Compensation Scheme available with District Legal Services Authority.

Seized alams, if any, shall be destroyed or returned to its owner after the period of appeal is over.

Let a copy of this Judgement and sentence be given to the convict free of cost at once.

Let a copy of this Judgement and sentence be forwarded to the District Magistrate, Alipurduar and the Superintendent/Controller of the concerned Correctional Home for information and necessary action as required by Section 365 of the Criminal Procedure Code, 1973.

Let another copy of this Judgement and sentence be forwarded to the Secretary, District Legal Services Authority, Alipurduar for taking necessary action.

The Judgement is pronounced in the open Court in presence of convict and given under my hand and seal of the Court today.

Following the direction of the Hon'ble High Court in *Malati Sardar Vs. State of West Bengal*, C.R.A 36 of 2011 and the direction issued by Hon'ble Mr. Justice Joymallya Bagchi in C.R.A 64 of 2014 the convict is informed in Bengali (a language which is understandable to him), that he has right to prefer appeal against this Judgement. He is also informed that he has a right to avail of Legal Aid from the appropriate Legal Services Authority if he intends to assail the conviction. The convict submits that he has understood his right.

The case thus stands disposed of.

Dictated & corrected
by me

Judge, Special Court,
under POCSO Act,
Alipurduar.

(PAPIYA DAS)
Additional Sessions Judge
-cum-Judge, Special Court
under POCSO Act,
Alipurduar.