

(1) Spl(P) Case No. 13 of 2026
Reg. No. 13 of 2026

IN THE COURT OF ADDITIONAL SESSIONS JUDGE
2nd COURT & Spl Pocso Court, SURI.

District- BIRBHUM

Present : Smt. Sarbani Mallik Chattopadhyay,
Additional Sessions Judge,
2nd Court and Pocso Court, Suri,
Birbhum (JO Code- WB00664)

Spl(P) Case No. 13 of 2026
S.T. No. 06(06)26
CNR NO WBBB01-001561-2026

(Arising out of Sainthia P.S Case No. 150/26 dt.
02.05.2026)

STATE		Complainant
	Versus.	
Samir Pauria		Accused person

Charged under Section 12 of POCSO Act

Date of delivery of Judgment : 05.08.2026

JUDGMENT

This Special Sessions Trial Case arises out of Pocso Case No. 13 of 2026 corresponding to Sainthia P.S Case No. 150/26 dt. 02.05.2026 under Section 352/356(3)/75(2) of BNS and Section 12 of POCSO Act.

The prosecution case, in brief, is that the defacto complainant lodged the complaint to the effect that on 1/5/2026 his middle daughter went to the house of his elder daughter as Koneyatri. When she was sitting with other relatives then at about 11.00 p.m. then suddenly the accused

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person put vermilion on her forehead. The accused person was not familiar to her previously. Then the victim girl started to cry and informed the incident to him over telephone.

On the basis of the written complaint, initially the case was started vide Sainthia P.S Case No. 150/26 dt. 02.05.2026 under Section 352/356(3)/75(2) of BNS and Section 12 of POCSO Act against the accused person Samir Pawria.

After taking charge of investigation, the I.O. visited the PO, prepared rough Sketch Map along with Index and examined available witnesses under Section 161 Cr.P.C., He arrested the accused person. Thereafter he seized the birth certificate of the VG and prepared the seizure list. Thereafter he returned the birth certificate by executing zimmanama. Thereafter on completion of the investigation he submitted charge sheet against the accused person, namely, Samir Pauria under Section 12 of Pocso Act.

Hence, the case proceeded against the present accused person.

After receiving the case record, charge has been framed against the accused person, namely, Samir Pauria under Section 12 of Pocso Act.

The charge, so framed, were read over and explained to the accused person in his own language, to which he pleaded not guilty and claimed to be tried.

Hence, this trial.

In support of the case of the prosecution, prosecution has examined as many as 08 witnesses and has also exhibited several documents, such as written complaint (Ext-1), signature of P.W-1 on the seizure list (Ext-2/1), zimmanama (Ext-3), statement of VG u/s-183 of BNSS (Ext-4), statement of the mother of the VG u/s-183 of BNSS (Ext-4/1), signature of P.W-6 on the seizure list (Ext-2/2), endorsement on the written

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complaint (Ext-1/1), formal F.I.R (Ext-5), rough sketch map with index (Ext-6 collectively) and seizure list regarding birth certificate of V.G (Ext-2).

After closure of the prosecution evidence, the accused person has been examined u/s 313 Cr.P.C. From the trend of cross-examination of the prosecution witnesses and answers, given by the accused person in his examination U/S. 313 Cr. P.C., it appears that the defence case is purely denial of the allegation of the prosecution and he is innocent and has been falsely implicated in this case. No witnesses have been examined on behalf of the defence.

Heard argument of both sides.

Perused the materials on record.

:- POINTS FOR CONSIDERATION :-

1. Whether the accused person committed sexual harassment upon the victim girl?
2. What quantum of punishment, if any, has to be inflicted upon the accused person, if he is found guilty?

:- DECISION WITH REASONS :-

Both the points are taken up together for the sake of convenience of discussion and in order to avoid repetition.

PW 01 Siben Murmu said that he is the defacto complainant of this case. The victim girl is his daughter. At the time of the incident, she was aged about 14+ years. The victim girl is his middle daughter. On 01.05.2026 the date was fixed for the marriage of his eldest daughter. His middle daughter went to the matrimonial house of his eldest daughter as 'konejatri'. He did not accompany konejatri. The son of his elder brother went to konejatri along with his daughter. He knows the accused person. He is present in the Court (identified).He puts vermilion on the forehead of his middle

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daughter. Subsequently the accused person and other persons denied the incident. Then he lodged the complaint in the P.S. He identified the written complaint (marked as Ext-1). He heard the incident from his nephew over telephone. Police seized the birth certificate of his daughter and prepared the seizure list and he puts his signature on it. He identified his signature on the seizure list (marked as Ext-2/1). Thereafter, police return the birth certificate to him after execute a zimmanama. He identified the zimmanama (marked as Ext-3).

In Cross-examination he said that his nephew Jiban Murmu and other persons accompanied his middle daughter at the konejatri. He and his wife did not go to konejatri. His nephew Sukumar Soren informed the incident over telephone at about 10:00 to 11:00 a.m in the morning. He cannot say the contents of the written complaint at present. He cannot say on which place he puts his signature on the said document. He cannot say the name of the scribe. His daughter told the incident to him subsequently. He give the deposition which he heard from his daughter. Police did not interrogate him. He denied that he falsely stated that he puts vermilion on the forehead of his middle daughter or that subsequently the accused person and other persons denied the incident.

PW 02 VG said that the defacto complaint is her father. At the time of the incident, she was aged about 15 years. She cannot say the specific date of the incident. On 01.05.2026 the date was fixed for the marriage of her elder sister. She went to the matrimonial house of her elder sister as 'konejatri'. Her father did not accompany him at the konejatri. When she was sitting there then the accused person put vermilion on her forehead suddenly. The local people called the accused person as Samir Pouria. She informed the incident to her father. Her father went to the P.O. The accused person hide himself inside the room so her father lodged the complaint in the P.S. The accused person did not commit further any mischief towards her. She knows the accused person. He is present in the Court

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(identified). Police brought her before the Court for recording her statement and of her mother u/s-183 of BNSS. She identified the statement u/s-183 of BNSS (marked as Ext-4 and 4/1).

In Cross-examination she said that she went to the marriage ceremony in the night along with other persons. She can say their names. At the time of the marriage ceremony there are many people from their side as well as from the side of the bride-groom. At that time the amusement was going on at the P.O. She does not know the local people of that P.O. She personally informed her father over telephone. Her parents came to the P.O after taking information from her on the same night. Police interrogated her. Thereafter, they returned back to their house. She denied that she was tutored at the time of giving the statement before the Magistrate or that she falsely stated that when she was sitting there then the accused person put vermillion on her forehead suddenly.

PW 03 Sukol Mardi said that the defacto complaint is his elder brother by village courtesy. He has three daughters. He knows his middle daughter i.e. the victim girl. He does not know the accused person. The victim girl went to the marriage ceremony of her elder sister as 'konejatri'. He does not accompany her. Subsequently he heard that one person put vermillion on the forehead of the victim girl. After getting information they went to the P.O. After reaching P.O they found that the dispute was going on at the P.O for putting vermillion by the accused person on the forehead of the victim girl so the defacto complainant lodged the complaint in the P.S.

In Cross-examination he said that he did not see the accused person to put vermillion on the forehead of the victim girl. He denied that he falsely stated that subsequently he heard that one person put vermillion on the forehead of the victim girl. He came to the Court along with the defacto complainant. He denied that he deposed falsely as per instruction of the defacto complainant.

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PW. 04 Jiban Murmu said that the defacto complaint is his uncle. He has three daughters. He knows his middle daughter i.e. the victim girl. He does not know the accused person. The victim girl went to the marriage ceremony of her elder sister as 'konejatri'. He accompanied her. When he was sitting along with the victim girl then the accused person suddenly came in front of the victim girl and put vermilion on her forehead. Prior to the incident the accused person was not familiar with them. Thereafter, they called the defacto complainant over telephone. When his uncle came at P.O and enquired the accused person the reason for doing so then the accused person denied the incident then the quarrel took place between them and the accused person. Thereafter, his uncle lodged the complaint in the P.S.

In Cross-examination he said that he cannot say the specific date of the incident. He has no video to prove his presence at P.O. He denied that he falsely stated that when he was sitting along with the victim girl then the accused person suddenly came in front of the victim girl and put vermilion on her forehead. He came to the Court along with the defacto complainant. He denied that he deposed falsely as per instruction of the defacto complainant.

PW 05 Suniram Murmu said that the defacto complaint is his uncle. He has three daughters. He knows his middle daughter i.e. the victim girl. He does not know the accused person. The victim girl went to the marriage ceremony of her elder sister as 'konejatri'. He does not accompany her. After getting information they went to the P.O and heard that the accused person put vermilion on the forehead of the victim girl. Then the accused person did not confess the offence and the dispute took place between them and the accused person. Then his uncle lodged the complaint in the P.S.

In Cross-examination he said that he does not see the incident. He denied that he falsely stated that after getting information they went to the P.O and heard that the accused

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person put vermilion on the forehead of the victim girl. He came to the Court along with the defacto complainant. He denied that he deposed falsely as per instruction of the defacto complainant.

PW 06 LHG 3381, Suparna Chakraborty said that now he is posted at Sainthia P.S. On 08.05.2026 she was posted at the same place. On that date I.O seized the birth certificate of victim girl and prepared the seizure list and she puts her signature on it. She identified her signature on the seizure list (marked as Ext-2/2).

PW 07 ASI Koushik Ghosh said that now he is posted at Sainthia P.S. On 08.05.2026 he was posted at the same place. On that date I.O seized the birth certificate of victim girl and prepared the seizure list in his presence.

PW. 08 SI Sanatan Mondal said that now he is posted at Sainthia P.S as S.I. of police. On 02.05.2026 he was posted at the same place and in the same capacity. On that date S.I Md. Mikayil Mian was the then O.C of Sainthia P.S. He received the complaint from Siben Murmu and started the case vide Sainthia P.S Case No. 150/23 dated 02.05.2026 u/s-352/356(3)/75(2) of BNS and 12 of POCSO Act. He identified the endorsement (marked as Ext-1/1). Thereafter, he filled up the formal F.I.R (marked as Ext-5). Thereafter, the then O.C handed over the charge of investigation to him and after taking charge of investigation he visited the P.O. He prepared rough sketch map with index (marked as Ext-6) (collectively). He examined the available witnesses and recorded their statement u/s-161 Cr.P.C. He arrested the accused person. Thereafter he seized the birth certificate of the VG and prepared the seizure list (marked as Ext-2). Thereafter he returned the birth certificate by executing zimmanama. Thereafter, on completion of investigation he submitted charge sheet against the accused person.

In Cross-examination he denied that he submitted the charge sheet without proper investigation.

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Now we have to consider as to whether the charge framed against the accused person is applicable or not.

Sole testimony of victim of sexual harassment is sufficient to hold accused guilty provided such testimony was natural and convincing. Conviction for sexual harassment can be founded on the testimony of the Victim girl alone unless there are compelling reasons for corroboration. The evidence of a Victim girl is more reliable than that of an injured witness.

The testimony of the victim of sexual harassment is vital unless there are compelling reasons which necessitate looking for corroboration of her statement, the court should find no difficulty in acting on alone to convict an accused where her testimony inspires confidence and is found to be reliable. Corroboration as a condition for judicial reliance on the testimony of the Victim girl is not a requirement of law but a guidance of prudence under given circumstances. The evidence of the Victim girl is more reliable than that of an injured witness. Even minor contradictions or insignificant discrepancies in the statement of the Victim girl should not be a ground for throwing out an otherwise reliable prosecution case.

In a prosecution case under the Pocso Act, one of the fundamental facts to be proved by the prosecution is that the victim involved in the case is a child in terms of the provisions of the Pocso Act. In absence of any evidence to prove that the victim in the case is a child in terms of the provisions of the Pocso Act, the prosecution has not established the guilt of the accused u/s 12 of the Pocso Act. If on evidence two conclusions are possible about the age of minor, one in favour of the prosecution and the other against it, the benefit of doubt should be given to the accused.

The record of age in school admission register is the best evidence. In its absence ossification test may be relied upon although it is not the sure test. It can be proved by birth

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register which is a public document. In case of age determined by radiological test the margin of error is two years on either side.

PW-1 i.e. the father of the victim girl said that at the time of the incident she was aged about 14+ years.

PW-5 i.e. the victim girl said that at the time of the incident she was aged about 15 years.

From Exbt.2 it appears that IO seized the birth certificate of the victim girl and her date of birth is shown as 26/2/2011 .

So from the oral and documentary evidence of the prosecution witnesses it appears that the victim girl was minor at the time of the incident.

Now we have to consider as to whether the prosecution able to prove the charge against the accused person.

PW 01 Siben Murmu said that he is the defacto complainant of this case. The victim girl is his daughter. At the time of the incident, she was aged about 14+ years. The victim girl is his middle daughter. On 01.05.2026 the date was fixed for the marriage of his eldest daughter. His middle daughter went to the matrimonial house of his eldest daughter as 'konejatri'. He did not accompany konejatri. The son of his elder brother went to konejatri along with his daughter. He knows the accused person. He is present in the Court (identified).He puts vermilion on the forehead of his middle daughter. Subsequently the accused person and other persons denied the incident. Then he lodged the complaint in the P.S. He identified the written complaint (marked as Ext-1).He heard the incident from his nephew over telephone. Police seized the birth certificate of his daughter and prepared the seizure list and he puts his signature on it. He identified his signature on the seizure list (marked as Ext-2/1).Thereafter, police return the birth certificate to him after execute a zimmanama. He identified the zimmanama (marked as Ext-3).

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In Cross-examination he said that his nephew Jiban Murmu and other persons accompanied his middle daughter at the konejatri. He and his wife did not go to konejatri. His nephew Sukumar Soren informed the incident over telephone at about 10:00 to 11:00 a.m in the morning. He cannot say the contents of the written complaint at present. He cannot say on which place he puts his signature on the said document. He cannot say the name of the scribe. His daughter told the incident to him subsequently. He give the deposition which he heard from his daughter. Police did not interrogate him. He denied that he falsely stated that he puts vermilion on the forehead of his middle daughter or that subsequently the accused person and other persons denied the incident.

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In Cross-examination she said that she went to the marriage ceremony in the night along with other persons. She can say their names. At the time of the marriage ceremony there are many people from their side as well as from the side of the bride-groom. At that time the amusement was going on

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at the P.O. She does not know the local people of that P.O. She personally informed her father over telephone. Her parents came to the P.O after taking information from her on the same night. Police interrogated her. Thereafter, they returned back to their house. She denied that she was tutored at the time of giving the statement before the Magistrate or that she falsely stated that when she was sitting there then the accused person put vermilion on her forehead suddenly.

PW 03 Sukol Mardi said that the defacto complaint is his elder brother by village courtesy. He has three daughters. He knows his middle daughter i.e. the victim girl. He does not know the accused person. The victim girl went to the marriage ceremony of her elder sister as 'konejatri'. He does not accompany her. Subsequently he heard that one person put vermilion on the forehead of the victim girl. After getting information they went to the P.O. After reaching P.O they found that the dispute was going on at the P.O for putting vermilion by the accused person on the forehead of the victim girl so the defacto complainant lodged the complaint in the P.S.

In Cross-examination he said that he did not see the accused person to put vermilion on the forehead of the victim girl. He denied that he falsely stated that subsequently he heard that one person put vermilion on the forehead of the victim girl. He came to the Court along with the defacto complainant. He denied that he deposed falsely as per instruction of the defacto complainant.

PW. 04 Jiban Murmu said that the defacto complaint is his uncle. He has three daughters. He knows his middle daughter i.e. the victim girl. He does not know the accused person. The victim girl went to the marriage ceremony of her elder sister as 'konejatri'. He accompanied her. When he was sitting along with the victim girl then the accused person suddenly came in front of the victim girl and put vermilion on her forehead. Prior to the incident the accused person was not familiar with them. Thereafter, they called the defacto complainant over

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telephone. When his uncle came at P.O and enquired the accused person the reason for doing so then the accused person denied the incident then the quarrel took place between them and the accused person. Thereafter, his uncle lodged the complaint in the P.S.

In Cross-examination he said that he cannot say the specific date of the incident. He has no video to prove his presence at P.O. He denied that he falsely stated that when he was sitting along with the victim girl then the accused person suddenly came in front of the victim girl and put vermilion on her forehead. He came to the Court along with the defacto complainant. He denied that he deposed falsely as per instruction of the defacto complainant.

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In Cross-examination he said that he does not see the incident. He denied that he falsely stated that after getting information they went to the P.O and heard that the accused person put vermilion on the forehead of the victim girl. He came to the Court along with the defacto complainant. He denied that he deposed falsely as per instruction of the defacto complainant.

PW 06 LHG 3381, Suparna Chakraborty said that now he is posted at Sainthia P.S. On 08.05.2026 she was posted at the same place. On that date I.O seized the birth certificate of victim girl and prepared the seizure list and she puts her signature on it. She identified her signature on the seizure list

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(marked as Ext-2/2).

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PW. 08 SI Sanatan Mondal said that now he is posted at Sainthia P.S as S.I. of police. On 02.05.2026 he was posted at the same place and in the same capacity. On that date S.I Md. Mikayil Mian was the then O.C of Sainthia P.S. He received the complaint from Siben Murmu and started the case vide Sainthia P.S Case No. 150/23 dated 02.05.2026 u/s-352/356(3)/75(2) of BNS and 12 of POCSO Act. He identified the endorsement (marked as Ext-1/1).Thereafter, he filled up the formal F.I.R (marked as Ext-5).Thereafter, the then O.C handed over the charge of investigation to him and after taking charge of investigation he visited the P.O. He prepared rough sketch map with index (marked as Ext-6) (collectively).He examined the available witnesses and recorded their statement u/s-161 Cr.P.C. He arrested the accused person. Thereafter he seized the birth certificate of the VG and prepared the seizure list (marked as Ext-2). Thereafter he returned the birth certificate by executing zimmanama. Thereafter, on completion of investigation he submitted charge sheet against the accused person.

In Cross-examination he denied that he submitted the charge sheet without proper investigation.

From the materials on record it appears that the defacto complainant lodged the complaint that on defacto complainant lodged the complaint to the effect that on 1/5/2026 his middle daughter went to the house of his elder daughter as Koneyatri. When she was sitting with other relatives then at about 11.00p.m. then suddenly the accused person put vermilion on her forehead. The accused person was not familiar to her previously. Then the victim girl started to cry and informed the incident to him over telephone.

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From Exbt. 1 it appears that the defacto complainant lodged the complaint to the effect that defacto complainant lodged the complaint to the effect that on 1/5/2026 his middle daughter went to the house of his elder daughter as Koneyatri. When she was sitting with other relatives then at about 11.00p.m. then suddenly the accused person put vermilion on her forehead. The accused person was not familiar to her previously. Then the victim girl started to cry and informed the incident to him over telephone.

From Exbt. 4 it appears that the victim girl gave the statement before the Magistrate that she went to the marriage ceremony of her elder sister. One boy coming from back side hugged her and dragged her. When she was sitting in the pandel then the accused person put vermilion on her forehead. Then she informed her parents. They called the accused person over telephone. She cannot say his name.

In this case from the materials on record it appears that the defacto complainant lodged the complaint that the accused person putting vermilion on the forehead of the victim girl causing her sexual harassment and when the defacto complainant has been examined as PW-1, he said that on 01.05.2026 the date was fixed for the marriage of his eldest daughter. His middle daughter went to the matrimonial house of his eldest daughter as 'konejatri'. He did not accompany konejatri. The son of his elder brother went to konejatri along with his daughter. The accused person puts vermilion on the forehead of his middle daughter. Subsequently the accused person and other persons denied the incident. Then he lodged the complaint in the P.S. He heard the incident from his nephew over telephone. In Cross-examination he said that his nephew Jiban Murmu and other persons accompanied his middle daughter at the konejatri. He and his wife did not go to konejatri. His nephew Sukumar Soren informed the incident over telephone at about 10:00 to 11:00 a.m in the morning. He

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cannot say the contents of the written complaint at present. He cannot say on which place he puts his signature on the said document. He cannot say the name of the scribe. His daughter told the incident to him subsequently. He give the deposition which he heard from his daughter. Though the victim girl raised the allegations at the time of giving the statement before the Magistrate that she went to the marriage ceremony of her elder sister. One boy coming from back side hugged her and dragged her. When she was sitting in the pandel then the accused person put vermilion on her forehead. Then she informed her parents. but when she was examined as PW-2 she said that on 01.05.2026 the date was fixed for the marriage of her elder sister. She went to the matrimonial house of her elder sister as 'konejatri'. Her father did not accompany him at the konejatri. When she was sitting there then the accused person put vermilion on her forehead suddenly. The local people called the accused person as Samir Pouria. She informed the incident to her father. Her father went to the P.O. The accused person hide himself inside the room so her father lodged the complaint in the P.S. The accused person did not commit further any mischief towards her. In Cross-examination she said that she went to the marriage ceremony in the night along with other persons. She personally informed her father over telephone. Her parents came to the P.O after taking information from her on the same night.

Though it is settled law that under the Hindu rituals and customs , putting vermilion on the forehead of a woman by a man coveys a man's promise and intention to marry the woman, which is sufficient enough for a woman to believe that he would in fact, marry her. But merely putting vermilion on a woman's forehead under coercion does not constitute a marriage under Hindu law. A hindu marriage is not valid unless the same act is voluntary and accompanied by the rituals of saptapadi (seven steps taken by the bride and groom around the sacred fire). If saptapadi has not been completed the

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marriage would not be considered to be complete. In this case the victim girl and other witnesses stated that except putting vermilion in front of all invitees present in the marriage ceremony of the elder sister of the victim girl the accused person did not commit any sexual assault towards the victim girl.

So the victim girl and other prosecution witnesses did not mention that at the time of the incident the accused person committed sexual assault upon the victim girl. Though the prosecution proved that the victim girl was minor at the time of the incident but the prosecution failed to prove that the accused person committed the sexual assault and harassment upon the victim girl on the date of the incident.

On the basis of the above observation, I am of the view that the prosecution has failed to prove the case by producing oral and documentary evidences beyond the shadow of reasonable doubts. So, the accused person is liable to be acquitted.

Hence it is,

ORDERED

that the accused person, namely, Samir Pauria is found not guilty for the offence punishable under Section 12 of POCSO Act and he is acquitted under Section 235(1) Cr.P.C and he will be discharged from his bail bond after expiry of six months as per provision of 437A CrPC.

The seized articles, if any, be destroyed after the period of limitation.

Dictated & Corrected

Addl. Sessions Judge,
2nd Court, Suri, Birbhum

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2nd Court, Suri, Birbhum
05.08.2026