

IN THE COURT OF Judge Special Court (POCSO Act) cum  
Additional Sessions Judge, Kalna, PURBA BARDHAMAN

Present : **Sri Chiranjib Bhattacharya**  
Judge Special Court (POCSO Act) cum  
Additional Sessions Judge, Kalna  
Purba Bardhaman  
**JO Code : WB00718**

[ Sessions Special Case No.23 of 2019  
(Sessions Trial No.57(06)/22)]

**CNR No. WBB11-000769-2019**

(Details of FIR / Crime and Police Station)

Complainant	STATE OF WEST BENGAL
REPRESENTED BY	NAME OF THE ADVOCATE <b>Sri Arindam Bajpayee</b>
ACCUSED	NAME WITH ALL PARTICULARS (A1) 1. Kartick Das S/o Bapi Das of village Chhotokoibati, PS Purbasthali, Dist Purba Bardhaman
REPRESENTED BY	NAME OF THE ADVOCATE <b>Sri Prtavat Kumar Ghosh</b>

**FORM- B**

Date of Offence	12.08.2019
Date of FIR	12.08.2019
Date of Charge-sheet	03.10.2019
Date of Framing of Charges	24.06.2022
Date of commencement of Evidence	27.09.2022
Date on which Judgment is reserved	21.04.2026
Date of the Judgment	28.04.2026
Date of the Sentencing Order, if any	NA

**Accused details:**

Rank of the Accused	Name of Accused	Date of arrest	Date of release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during Trial for purpose of Section 428, Cr.P.C.
01	Kartick Das	13.08.2019	26.08.2019	Sec.376AB IPC read with s. 511 of IPC and Sec.6/12 of POCSO Act.	acquitted	NA	13 days

## **JUDGMENT**

On 12.08.2019 a complaint was lodged by the complainant (name withheld to protect identity) alleging that on the same day at about 9 am her daughter aged about 04 years and 03 months went to the house of the accused Kartick Das who was her neighbour. Subsequently, complainant went to the house of the accused person to call her daughter to feed her and at that time she found that the accused person was trying to commit rape upon the victim girl after removing her wearing apparels. On seeing this complainant screamed and then the accused person released her daughter. When complainant reported the incident to the family members of the accused they abused her. Subsequently, complainant lodged a written complaint before I/C Purbasthali PS in respect of the incident.

On the basis of the complaint Purbasthali PS Case number 283/19 dated 12.08.2019 under Sec. 376AB/511 IPC & Sec.8 POCSO Act was started.

On 13.08.2019 accused Kartick Das was brought under arrest before this court and he was released on bail on 26.08.2019. Subsequently, on 03.10.2019 IO of this case submitted charge-sheet against accused person under section 376AB IPC & Sec.6 POCSO Act.

## **CHARGE**

On 24.06.2022 charge under Sec.376AB/511 IPC & Sec.6/12 of POCSO Act was framed against the accused person. Written charge was read over and explained to the accused person to which he pleaded not guilty. Hence, the trial.

## **EVIDENCE**

In order to establish the charge prosecution side examined 05 witnesses. They are

PW1	Victim Girl.
PW2	Mother of the victim.
PW3	Father of the victim
PW4	Janardan Das
PW5	Swapna Das

Following documents were proved as exhibits by the prosecution side.

Ext-1(a)	Signatures of PW2 on the Seizure list dt.04.09.2019 .
Ext-1(b)	Signatures of PW3 on the Seizure list dt.04.09.2019
Ext-2(a)	Signature of PW3 on the medico legal examination report of the victim.
Ext-3	Signature of PW5 on the written complaint.

After completion of prosecution evidence accused person was examined u/s 313 Cr.P.C on 08.01.2026 and he denied all the allegations. No evidence was adduced on behalf of the accused person.

Defence case, as it appears from the examination of the accused u/s 313 Cr.P.C and trend of cross-examination, is complete denial of prosecution case.

### **DECISION WITH REASON**

From the evidence of prosecution witnesses it can be seen that P.W. -1, who was the victim girl, in her evidence stated that on the relevant day at about 9.00 am she asked the accused person to give her a doll and at that time he took her to his house and put his hand on her vagina and also tried to kiss her. She also stated that her mother saw the incident and thereafter she took her to their house and accused also came to her house and her mother scolded the accused. During cross-examination she stated that on the date of incident her school was open but she did not go to school. Subsequently she also stated that she was not studying in any school. She also named the persons who reside near her house.

PW2 who was the complainant and mother of the victim stated that on 12.08.19 at about 9 am her daughter went to the house of the accused to play and when she went to the house she found the accused person was in nude condition with the victim on his lap. She also stated that wearing apparels of her daughter was in torn condition and accused was going to rape the victim. She further stated that she pushed her daughter from his lap and shouted for the said incident and took her daughter to her house. She further stated that she told 4/5 local people about the incident. During cross-examination she has stated that at the relevant time her sons and daughters were playing and accused call all of them to his house . She also stated that about 10/20 persons assembled at the spot hearing her shout but she could not tell their names. She also stated that at the relevant time her daughter was studying at Anganwari school.

PW3 was the father of the victim. This witness stated that on 12.08.2019 his wife lodged the complaint as she saw the accused person trying to commit rape on their daughter in his house. He also stated that hearing cry of his wife he rushed to the spot and several local people assembled at the spot. He also stated that he brought his daughter to his house and at that time she was in naked condition. During cross-examination this witness stated that he heard about the incident from his house. He denied that there was any quarrel in between the accused and his relatives and therefore the complaint was lodged.

PW4 was a neighbour of the complaint and she stated that she heard about the incident from the local people. No material evidence comes from this witness.

PW5 was the scribe of the complaint and he only proved his signature on the written

complaint and stated that as per direction of the complainant he drafted the complaint.

In the present case medical report of the victim shows that the mother of the victim refused to get the victim medically examined. Therefore, the fact of sexual assault is not established by way of medical evidence. It can also be seen that there is gross discrepancy in the evidence of the prosecution witnesses. PW 1 and PW 2 did not state about presence of PW3 at the spot after the incident. PW1 stated her mother brought her back and PW2 also made similar statement but PW3 stated that hearing scream of his wife he rushed to the spot from his house and brought the victim back. PW 2 specifically stated that her husband was not in the house at the relevant time and such statement runs contrary to the evidence of PW3. Not a single person stated that after hearing cry of PW2 he/she went to the spot although PW2 and PW3 claimed that several persons assembled at the spot. Although PW2 stated that PW1 used to study in Anganwari school but that fact was denied by PW1 and she made different statement about attending school by her on the relevant day.

Prosecution side failed to produce the investigating officer without any cogent excuse and even no independent witnesses whose names transpired from the evidence of the victim and PW2 were examined by the prosecution side.

Therefore, after considering the evidence of the prosecution witnesses, in my opinion, in the present case prosecution side failed to establish that the accused person attempted to commit rape upon the victim or committed any act of aggravated penetrative sexual assault or sexual harassment of the victim and the accused person is liable to be acquitted.

It is, therefore,

**ORDERED**

that the accused person namely Kartick Das is found not guilty for the offence punishable under Sec.376AB/511 IPC & Sec.6/12 of POCSO Act and he is acquitted as per provision of Section 235(1) of Cr.P.C.

The accused person is on bail, he are discharged from his bail bonds and set at liberty subject to the provision of Sec. 437A Cr.P.C.

Seized alams, if any, be destroyed after the expiry of period of appeal.

Let a copy of this judgment be forwarded to the complainant through Chairman, SDLSC, Kalna and another copy be sent to the District Magistrate, Purba Bardhaman.

Dictated and Corrected by me:

Additional District & Session Judge  
Cum Judge Special under POCSO Act  
Kalna, Purba Bardhaman

Additional District & Session Judge  
Cum Judge Special under POCSO Act  
Kalna, Purba Bardhaman

**Form C**  
**LIST OF PROSECUTION / DEFENCE / COURT WITNESSES**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
PW1	Victim Girl.	Eye witness
PW2	Mother of the victim.	Complainant/Other witness
PW3	Father of the victim	Other witness
PW4	Janardan Das	Other witness
PW5	Swapna Das	Other witness

**B. Defence Witnesses, if any :**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
-	-	--

**C. Court Witnesses, if any :**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
-	--	--

**LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS**

**A. Prosecution :**

<b>Sl. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1.	Ext-1(a)	Signatures of PW2 on the Seizure list dt.04.09.2019 .
2.	Ext-1(b)	Signatures of PW3 on the Seizure list dt.04.09.2019

3.	Ext-2(a)	Signature of PW3 on the medico legal examination report of the victim.
4.	Ext-3	Signature of PW5 on the written complaint.

**B. Defence : NIL**

Sl. No.	Exhibit Number	Description

**C. Court Exhibits : NIL**

Sl. No.	Exhibit Number	Description
1	--	--

**D. Material Objects : NIL**

Sl. No.	Material Object Number	Description
1	--	--

Dictated and Corrected by me:

Additional District & Session Judge  
Cum Judge Special under POCSO Act  
Kalna, Purba Bardhaman

Additional District & Session Judge  
Cum Judge Special under POCSO Act  
Kalna, Purba Bardhaman