

District :Murshidabad.

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE,
1ST COURT, LALBAGH, MURSHIDABAD.**

Present : Sri Suratheswar Mondal,
Additional Sessions Judge,
1st Court, Lalbagh, Murshidabad.
JO Code-WB00617

POCSO Case No. 48 of 2022
CNR-WBMD08-001443-2022

Arising out of

Ranitala PS Case No. 445 of 2022 dated 06.10.2022

State of West Bengal

.....Prosecutor.

Versus

- 1) Sujan Sk**
- 2) Halim Sk**
- 3) Altab Hossain @ Altabur Sk**
- 4) Nasir Sk @ Nasiruddin**
- 5) Senarul Sk**

.....Accused persons.

U/S 363/365/376 IPC and U/S. 6 POCSO Act aganst accused Sujan Sk

U/S 363/365/34 IPC and U/S. 6/17 POCSO Act against four accused persons namely,

Halim Sk, Altab Hossain @ Altabur Sk, Nasir Sk @ Nasiruddin and Senarul Sk

Date of delivery of Judgment : 15.02.2025

J U D G M E N T

The fact of the case in brief is that on 06.10.2022 mother of a minor girl aged about 15 years {identity of the minor girl and her mother is not disclosed in compliance of section 33(7) of POCSO Act and the minor girl is herein after

referred to as VG} lodged a written complaint before the Officer-in-charge of Ranitala Police Station to the effect that on 06.10.2022 at about 11:00 a.m. the VG left her house in a scooter bearing registration no. WB 58 AX 7698, but she did not return home. During search the de facto complainant came to know that the accused Sujan Sk eloped the VG and the said accused Sujan Sk with the assistance of other accused persons kept the VG confined in any secret place.

On receipt of the said written complaint Ranitala P.S. Case No. 445 of 2022 dated 06.10.2022 was started under Section 363/365/34 IPC against the present accused persons.

After investigation charge sheet has been submitted vide C/S No. 496 of 2022 dated 06.10.2022 under Section 363/365/34 IPC and adding section 4 POCSO Act.

After taking cognizance the accused persons were supplied prosecution documents and on consideration of the materials on record and C/D charge was framed against accused Sujan Sk u/S. 363/365/376 IPC and 6 POCSO Act and charge was also framed against accused Halim Sk, Altab Hossain @ Altabur Sk, Nasir Sk @ Nasiruddin and Senarul Sk u/S. 363/365/34 IPC and 6/17 POCSO Act and the contents of the charge was read over and explained to the concerned accused persons to which they pleaded not guilty and claimed to be tried.

POINTS FOR DECISION :-

1. Whether the prosecution has been able to prove the charge against the accused persons?
2. Whether the accused persons are guilty of the offence as alleged?

To prove the charge the prosecution has examined four witnesses only.

Besides oral evidence the prosecution has adduced some documentary evidence which have been marked as follows:-

Ext. P1/PW2 – Signature of PW2 on the written complaint;

Ext. P1/1/PW3 - Written complaint;

Ext. P2/PW4 – Signature of PW4 on the seizure list;

On the other-hand, no oral or documentary evidence has been adduced by the defence side except cross-examination of PWs.

Decision with Reasons

Both point nos. 1 & 2 being interlinked character are taken up together for the sake of brevity and convenience of discussion.

Perused the evidence as adduced by the prosecution along with other materials on record.

PW1 is the VG of this case who has stated in her evidence that her mother scolded her for which she went to her friend's house without informing anybody and her mother could not find her till the evening for which her mother lodged complaint. She has also stated that her statement was recorded by the Ld. Magistrate.

In her cross-examination PW1 has stated that whatever she has stated before the Ld. Magistrate was tutored by police.

PW2 is the mother of the VG who is the de facto complainant in this case. PW2 has stated in her evidence that the VG was not traced out for which she lodged the complaint at Ranitala P.S. and subsequently, the VG was found at her friend's house. She proved her signature on the written complaint which has been marked as Exbt. P1/PW2.

In her cross-examination PW2 has stated that she does not know the contents of the written complaint. She has also stated that due to misunderstanding she filed the complaint and she has no complaint against the accused persons.

PW3 is the scribe of the complaint who has stated that he scribed the complaint as per instruction of de facto complainant and the written complaint has been marked as P1/PW3.

PW4 is the father of the VG who has stated in his evidence that about three years ago his wife lodged a written complaint at Ranitala P.S. He has also stated that at the time of lodging complaint he was at Digha in c/w his work and after returning home he heard from his wife that the VG was not found in the house for which his wife lodged complaint at Ranitala P.S. He has also stated that birth certificate was handed over to the police and he put his signature on the seizure list in c/w seizure of said birth certificate of VG. His signature on the seizure list has been marked as P2/PW4. These are the nature of evidence as adduced by the prosecution.

On perusal of the case record it appears that the case was initially started u/S. 363/365/34 IPC but during investigation the statement of VG was recorded u/S. 164 Cr.P.C. and thereafter, section 4 POCSO was added as per order of Ld. ACJM, Lalbagh dt. 22.10.2022 on the basis of prayer of IO and subsequently after completion of investigation charge sheet was submitted. Therefore, the offence under section 4 POCSO was added on the basis of statement of VG recorded u/S. 164 Cr.P.C. but during her evidence as PW1 the VG has stated nothing against any of the accused person in respect of allegation of kidnapping her or committing any sexual offence by the accused Sujan Sk. The VG (PW1) has stated in her evidence that she has no complaint against the accused persons. She has also stated that the complaint was lodged by her mother due to misunderstanding as she went to her friend's house without informing anybody and her mother did not find her till the evening.

Similarly mother of the VG (PW2) who is the de facto complainant has also stated in the same tune that due to misunderstanding she filed this case as the VG was not found , but after lodging complaint the VG was found at her friend's house.

Father of the VG (PW4) has also stated nothing against the accused persons. Therefore it appears that the VG and her parents gave a clean chit to all the accused persons. According to them they have no complaint against the accused persons and the case was filed due to misunderstanding.

Section 4 POCSO Act was added during investigation on the basis of statement of VG recorded u/S. 164 Cr.P.C., but the said recorded statement u/S. 164 Cr.P.C. has not been proved. In fact the VG (PW1) in her evidence has stated that whatever she has stated before the Ld. Magistrate was tutored by the police. Therefore, no reliance can be placed upon the said recorded statement of VG u/S. 164 Cr.P.C. at this stage of trial.

On consideration of evidence as adduced by the prosecution it appears that there is no iota of evidence against any of the accused persons in respect of the offence under which charge has been framed against the respective accused persons.

In view of the above discussion I have no hesitation to hold that the prosecution has miserably failed to prove the charge against the accused persons and therefore the accused persons are entitled to be acquitted.

Hence, it is

ORDERED

that the accused person Sujan Sk is found not guilty of the offence punishable u/S. 363/365/376 of IPC & u/S. 6 of POCSO Act and the accused persons namely, Halim Sk, Altab Hossain @ Altabur Sk, Nasir Sk @ Nasiruddin and Senarul Sk are found not guilty of the offence punishable u/S. 363/365/34 of IPC & u/S. 6/17 of POCSO Act and accordingly, all the accused persons are acquitted from this case in terms of Section 232 of Cr.P.C.

Sureties be discharged from their respective bail bonds subject to provision u/S. 437(A) of Cr.P.C. Inform accordingly.

Alamat, if any, be disposed of after appeal period is over.

Dictd. & Cortd. by me,

Judge, Special Court,
Lalbagh, Msd.

Judge, Special Court,
Lalbagh, Murshidabad.