

IN THE COURT OF ADDITIONAL DISTRICT & SESSIONS JUDGE
2ND COURT, COOCH BEHAR.

Present : Smt. Mandakranta Saha,
Additional Sessions Judge,
2nd Court, Cooch Behar.

Judgement delivered on : 25th day of June, 2026

GR (POCSO) Case No. 575 of 2014 (CIS No. 575 /2014)
Sessions TRIAL No. 05(04)2016
C.N.R. No.- WBCB01-003424-2014

Ref : Kotwali Police Station Case No. 604/2014 dated 04/07/2014
u/s 376/109 of IPC and Section 4 of POCSO Act
State of West Bengal

Vs

- 1) Madan Roy S/o Late Rajeswar Roy of Chowrangi Gopalpur, P.S
Pundibari, Dist. Cooch Behar (A1)
- 2) Chandan Roy s/o Rajeswar Roy of Chowrangi Gopalpur, P.S
Pundibari, Dist. Cooch Behar (A2)

.....Accused Persons.

Charge U/s- 17/4 of POCSO Act

J U D G M E N T

Form-B

Date of Offence	13.06.2014
Date of F.I.R.	04.07.2014
Date of charge sheet	28.03.2015
Date of framing charge	04.06.2016
Date of commencement of evidence	21.12.2016
Date of judgement	25.06.2026

Factual matrix leading to initiation of the proceeding is that – on 13.06.2014 at about 8.00 P.M after attending marriage ceremony at village Baneswar, Siddheswari, while the victim girl was returning towards her house after completing diner from the marriage ceremony, on the way when victim crossing rail

line, accused caught hold victim girl from her back side, dragged her towards railway track and forcefully raped upon her lying on the ground. Thereafter victim girl raised hue and cry. On hearing such hue and cry local people came there and caught hold the accused Chandan Roy. Accused confessed his guilt in front of the local people and requested victim girl not to file any case against him and he promised to marry her. Thereafter on 14.06.2014 accused got married with victim girl as per Hindu rites and customs and after marriage victim girl went to her in laws house. Thereafter accused Chandan Roy fled away from his house leaving the victim to their residence. Victim girl started to reside at the house of accused Chandan with the family members of her in laws. Accused Chandan Roy did not return to his home. Victim girl tried to contact with the accused but she failed to contact with him. Thereafter the family members of the accused Chandan started to torture upon her both physically and mentally. Victim could not tolerate their torture. Thereafter on 02.07.2014 victim girl left from the house of accused and returned to her parents house and thereafter went to P.S for lodging complaint.

The matter was informed to Kotwali Police Station, Cooch Behar by way of written complaint. Accordingly, a case vide Kotwali Police Station Case No. 604/2014 dated 04/07/2014 u/s 376/109 of IPC and Section 4 of POCSO Act was initiated. After completion of investigation charge sheet was submitted u/s 376/109 of IPC and Section 4 of POCSO Act against the accused persons namely, Madan Roy and Chandan Roy.

Charge was framed U/s 17 of POCSO Act against accused Madan Roy and charge was framed U/s 4 of POCSO Act against accused Chandan Roy. They pleaded not guilty and claimed to be tried.

Prosecution has examined ten (10) witnesses for proving the case. The accused persons are examined u/s 313 Code of Criminal Procedure, 1973 and they claimed themselves as innocent.

No evidence from the side of the defense is adduced.

Points for Determination

Whether the prosecution has been able to prove the offence u/s 17 of POCSO Act against accused Madan Roy and the offence u/s 4 of POCSO Act against accused Chandan Roy beyond reasonable doubts?

List of Prosecution Witnesses Examined

RANK	NAME	NATURE OF EVIDENCE
P.W.- 1	Smt. Laxmi Barman	Victim Girl
P.W.- 2	Akhil Roy	Public witness
PW-3	Nibu Roy	Public witness
PW-4	Kanu Roy	Public witness
PW-5	Gabinda Roy	Public witness
PW-6	Smt. Ratna Roy	Sister of VG
PW-7	Dulal Roy	Public witness
PW-8	Sanjay Routh	Law Clerk
PW-9	S.I Ganesh Murmu	Investigating officer.
P.W-10	Dr. Gouranga Roy	Medical Officer

List of Prosecution Exhibits

Serial No.	Exhibit Number	Description
1	Exhibit No. 1 series / P.W-1/PW.8/PW.9	The written complaint along with endorsement and signatures of witnesses
2	Exhibit No. 2/1 / P.W-1	Signature of PW.1 on the medical examination report
3	Exhibit No. 3/1 / P.W-1	Statement of VG u/s 164 Cr.P.C
4	Exhibit No. 4 series/ P.W-1/PW-6/PW-9	Signature of PW.1, PW.^ and PW.9 on the seizure list dated 06.07.2014
5	Exhibit No. 5/1 / P.W-1	Signature of PW.1 on the zimmanama
6	Exhibit No. P-6 / P.W-9	Formal FIR

7	Exhibit No.P-7/ P.W-9	Rough Sketch Map with index
8	Exhibit No. P-8 / P.W-9	Seizure list dated 04.07.2014
9	Exhibit No. P-9 / P.W-9	Original birth certificate of victim girl
10	Exhibit No. P-10 / P.W-10	Medical report of VG

Decision with Reasons

It is the duty of the prosecution to establish the charge of offence against the accused persons by leading cogent and reliable evidence.

Now, let's see how far the prosecution has been able to bring home the charges labeled against the accused persons beyond reasonable doubts.

P.W.1, Victim girl is the complainant of this case. She lodged a complaint against above named two accused persons. She stated in her evidence that at the time of deposition she was aged about 18 years. On 13.05.2014 in the evening an incident occurred with her by the accused Chandan Roy when she was returned towards her home after completing dinner for attending marriage ceremony (boubhat) at Siddheswari under P.S Kotwali, Cooch Behar. While she was returning from that place accused Chandan caught hold her and dragged her towards New Baneswar Railway Track and raped upon her lying her on the ground. On hearing her hue and cry local villagers gathered there and caught hold the accused and in present of the villagers accused assured victim to marry and the family members of the accused Chandan was called over telephone, they reached at PO and went to the house of victim girl and on the next night marriage was held between the accused Chandan and victim. Accused after reaching to his house left her alone there fled away from the house. The family members of the accused Chandan abused her as well as physically assaulted her while staying at their house, however she resided there more than one month at

their house and subsequently she left from their house under compulsion and lodged complaint before P.S. She was medically treated at hospital. She gave her statement before Ld. Magistrate. She identified the accused persons on dock.

During cross-examination she stated that her husband resides at Raiganj. From the wedlock she gave birth to a son. The house of the accused is situated at a distance of 10 minutes by walking from her house.

The evidence of VG further shows that she had been dragged to railway track from road where she had been subjected to rape by accused. If such incident actually occurs the victim ought to suffer multiple injuries on her person. However, there is no medico-legal evidence is available showing existence of injuries on the person of VG. She never deposed that she had suffered injuries while she had been allegedly dragged to railway track.

P.W-1 further alleged that she had been assaulted by the family of principal accused person. No whisper is made by the VG with regard to manner of alleged assault allegedly committed by accused person, nor VG deposed whether she ever suffered any injuries due to alleged assault by family members of principal accused person. Except such piece of oral evidence of VG there is no other evidence with regard to incidents of assault committed by co-accused upon the VG.

Akhil Roy, (PW.2) adduced that an incident took place before 4 to 5 years at about 8 PM to 8.30 PM from the date of his deposition. On that day victim was invited in the reception ceremony of his son at his house. When the victim girl was returned towards her house she was caught by a boy and the said boy raped upon her forcefully. Victim raised hue and cry. On hearing such hue and cry Many people gathered at PO and they apprehended that boy. After two days victim was given marriage with that boy. The boy fled away leaving the victim to their house.

During cross-examination PW.2 stated that the distance between his house and the house of victim is about one mile. Many vehicles ply on the pucca road. The distance between his house and railway gate is 1 bigha.

Nibu Roy (PW.3) adduced that one incident took place before 4 to 5 years back from his deposition at about 8 to 8.30 PM. On that day victim went to attend a marriage ceremony and on her way back to her house when she reached rail gate, one boy committed rape upon victim. The local people assembled at PO. He also went there. He found both the boy and girl. The boy confessed his guilt. They brought the victim girl and boy to the house of victim. On that day the boy got married with victim.

During cross-examination this witness stated that the house of Akhil is situated at a distance of 1 KM from his house. Victim is the next door neighbour. The distance between the house of Akhil and rail gate is at about 100 mtrs.

PW.4, Kanu Roy adduced that one day an incident occurred with victim girl and a boy at about 8 P.M to 8.30 P.M. The victim girl was then 14 to 15 years old. On that day a reception ceremony was going on in the house of Ahil Roy. Victim went to attend the said ceremony and while she was returning back following the railway track a boy named Chandan Roy committed rape upon the victim girl. After hearing hue and cry he went to the PO. He heard the incident from victim girl. Accused also confessed his guilt. Thereafter both the victim and accused Chandan were taken to the house of victim and on that night the marriage of victim and Chandan took place. Accused Chandan took the victim to his house. Then he heard that Chandan left his house leaving the victim to their house.

During cross-examination he adduced that Chandan got married with victim according to Hindu Rites and Customs. Victim along with her relatives attend a marriage ceremony. He also attended the marriage of victim girl and Chandan.

PW.5, Gobinda Roy stated in his evidence that one day an incident occurred with victim girl in the night at about 8 to 8.30 P.M. On the relevant day a marriage ceremony was going on to his brother's house.

This is proceeding u/s 4 of POCSO Act which means the victim ought to be a child. To prove the age of the victim no piece of cogent documentary evidence is produced during trial. No birth certificate, matriculation document or admission register of school is produced in evidence to establish that the victim was a minor girl on the date of alleged incident nor the IO ever sought for ossification test to determine the age of the victim. document of age proof. There is no explanation from side of prosecution for with holding the based evidence about the proof of age of the victim on the date of incident. There is no other proof, except oral evidence of VG, to establish the age of the victim as on the date of the incident. Thus, the prosecution has failed to establish the basic requirement of law to prosecute the accused under the Protection of Children from Sexual Offence Act, 2012.

The evidence of victim cum complainant (PW.1) shows that the residence of Ahil Roy is situated at a distance of 10 minutes on foot from her residence. PW.1 also stated that PW.2 is her adjacent neighbour. Again the evidence of Akhil Roy shows that there is distance of 1 mile between his residence and the house of victim. The evidence of PW.1 contradicts the evidence of PW.2 regarding distance between their houses. The evidence of PW.2 shows that there is distance of 1 bigha land between his house and the railway gate however such evidence is not corroborated by PW.1. Again PW.3 stated in cross examination that residence of Akhil/PW.3 is situated at a distance of 100 mtrs from the rail gate. Thus there are inconsistent evidences with regard to the location of houses of PW.1, PW.2 and the railway track. Again

Almost all witnesses contended that on hearing hue and cry of victim they gathered at the railway track where victim had

been subjected to rape by Chandan. The rough sketch map with index does not show the location of any of the houses of PW.2 to PW.5 and PW.7. There is no indication in exhibit-P-7 with regard to existence of houses of these witnesses near the railway track. On the other hand, the index F shows the house of Shyamal Roy and house of Biswa Seal is shown by index D near the place of occurrence. Even the index B shows the railway gate room near the PO. None of the inhabitants of these houses are examined as witnesses in the case. There is no explanation assigned by prosecution for not examining Shyamal Roy Biswas Seal, Railway gate man as witnesses who had the chances of hearing hue and cry of victim. Thus it is doubtful as to how PW.2 to PW.5 and PW.7 heard hue and cry of victim and reached the railway track when their houses are not situated near to the alleged PO.

It is also seen from evidences on record that victim got married to the accused then stayed together for several days. Thereafter dispute started between which led to lodging of the complaint.

The testimonies of P.W-2 show that distance between his residence and house of VG is approximately one mile. Again the distance between the house of P.W-2 and railway gate is one bigha of land. Such evidence of P.W-2 is found to inconsistent with evidences of VG. P.W-1 deposed that her residence is adjacent to house of Akhil Roy/P.W-2. Again P.W-3 stated that distance between the house of Akhil Roy and rail gate is 100 meters. Such piece of evidence of P.W-3 contradicts the evidence of P.W-1 and P.W-2.

Evidence of P.W-6 /sister of VG shows that on hearing shouting of her sister she had rushed to rail gate then recovered the VG. This testimony of P.W-6 are not corroborated by other witnesses including VG.

Evidence of P.W-8/scribe is formal in nature.

On perusal of evidence of I.O/P.W-9 no cogent material is available. P.W-9 admitted that he had not examined railway gate

man and Biswa Seal during the course of investigation. These persons are not cited as witnesses, nor they are examined as witnesses by prosecution.

The evidences on record are found to be unreliable. Occurrence of the incident in the manner as deposed by witnesses is found to be improbable.

In the light of the discussions made above it is concluded that the ingredients of the offence involved in this case are not proved beyond reasonable doubt. Accordingly, accused persons are entitled to be acquitted.

Hence, it is,

ordered

that accused person namely, **Madan Roy** is acquitted u/s 235(1) Cr.P.C from the charge 17 of POCSO Act. Another accused person namely **Chandan Roy** is acquitted u/s 235(1) Cr.P.C from the charge 4 of POCSO Act.

Sureties are discharged from their bonds.

Alamat property, if any, be disposed of after expiry of appeal period.

Rank of 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 the purpose of Section 428 Cr.P.C.
A1	Madan Roy	08.08.12.2014	08.08.12.2014	u/s 17 of POCSO Act.	Acquitted	Not Applicable	Not Applicable
A2	Chandan Roy	05.12.2014	05.12.2014	u/s 4 of POCSO Act.	Acquitted	Not Applicable	Not Applicable

Dictated and Corrected by me.

Sd/-
Additional Sessions Judge,
2nd Court, Cooch Behar

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Additional Sessions Judge,
2nd Court, Cooch Behar
JO Code No.WB00825