

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

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

Judgment delivered on : 13th day of July, 2026

**POCSO Case No. 24 of 2019 (CIS No.24/2019)
POCSO TRIAL No. 03 (01) 2020
C.N.R. No.- WBCB01-002816-2019**

**Ref: Women (Sadar) Police Station Case No. 105/2019 dated 01.12.2019
under Section-6 of POCSO Act**

State of West Bengal

Vs

**1) Bimal Roy, S/o Mageswar Roy of Petbhata Chandan Chawra, P.S
Pundibari, District Cooch Behar (A1)**

..... Accused Person.

Charge U/s- Section-6 of POCSO Act

J U D G M E N T

Form-B

Date of Offence	Before 1 & 1/2 months from the date of 30-01-2019
Date of F.I.R.	01.12.2019
Date of charge sheet	31.12.2019
Date of framing charge	07.01.202020
Date of commencement of evidence	12.02.2020
Date of judgement	13.07.2026

Factual matrix leading to initiation of the proceeding is that – in 2019 the victim girl was a student of class XII standard.

The accused person used to place indecent proposal to the victim girl during her way from school. On gathering information of such incidents the father of victim cautioned the accused person about his activities. After 1 & ½ months of the incident the accused on a day while the victim was on her way to tuition class, the accused restrained her movement. By threatening victim, the accused took her to Mathura Tea Estate and subjected her to rape. On subsequent occasions the accused again took the victim at back side of his residence and to the bushes situated at back side back side of Krishi Viswavidyalaya and subjected her to rape on several occasions. On hearing the incident the father of victim reported the incidents to police station.

The written complaint was registered as FIR. Accordingly, Pundibari Police Station Case No. 105/2019 dated 01.12.2019 u/s 6 of POCSO Act was initiated.

After completion of investigation charge sheet was submitted u/s 6 of POCSO Act against accused namely Bimal Roy.

Charge was framed U/s 6 of POCSO Act against the accused person namely Bimal Roy. He pleaded not guilty and claimed to be tried.

Prosecution has examined thirteen (13) witnesses for proving the case. The accused person is examined u/s 313 Code of Criminal Procedure, 1973 and he claimed himself as innocent.

No evidence from the side of the defence is adduced.

Points for Determination

Whether the prosecution has been able to prove the offence U/s 6 of POCSO Act against the accused person beyond reasonable doubts?

List of Prosecution Witnesses Examined

RANK	NAME	NATURE OF EVIDENCE
P.W.- 1	Victim Girl	Injured
P.W.- 2	Father of victim girl	Defacto complainant

PW-3	Mother of victim girl	Public Witness
PW-4	Sister of victim girl	Public Witness
PW-5	Smt Swapna Barman	Public Witness
PW-6	Ranjit Barman	Public Witness
PW-7	Dr. Jogesh Chandra Barma	Medical Witness
P.W-8	Subhankar Das	Scribe
P.W-9	Rakhi Barman	Public Witness
P.W-10	L.C 341 Sampa karjee	Police witness
P.W-11	L.C 1070 Kunti Bala Roy	Police Witness
P.W-12	Dr. Pranabesh Bharatee	Medical Witness
P.W-13	LS.I Sanchita Chakraborty	Investigating Officer

List of Prosecution Exhibits

Serial No.	Exhibit Number	Description
1	Exhibit No. P-1 series / P.W-1,P.w-2, PW7	Medical report of VG with signature thereon.
2	Exhibit No. P-2 (as a whole)/ P.W-1	Statement of victim girl with signatures u/s 164 Cr.P.C
3	Exhibit No. P-3 series- P.W-2,PW-8,P.W-13	Written complaint with signatures and endorsement thereon
4	Exhibit No. P-4series-P.W-2, P.w-3,P.W-10,	Seizure list dt.02.12.2019 with signatures of witnesses thereon
5	Exhibit No. P-5 /P.W-2, P.W-13	Original Zimmanama with signature thereon.
6	Exhibit No. P-6 / P.W-2	Original birth certificate of VG
7	Exhibit No. P-7/P.W-10,P.w-13	Seizure list dt.02.12.2019 with signatures of witnesses thereon
8	Exhibit No. P-8/ P.W-12	Potency Test report of accused
9	Exhibit No. P-9/P.W-13	Formal FIR
10	Exhibit No.P- 10/P.W-13	Rough sketch map with index of 1 st P.O
11	Exhibit No.P-11/PW.13	Rough sketch map with index of 2 nd P.O

Decision with Reasons

It is the duty of the prosecution to establish the charge of offence against the accused person 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 person beyond reasonable doubts.

This is proceeding u/s 6 of POCSO Act which means the victim ought to be a child. To prove the age of the victim the original birth certificate (Ext-P-6) has been produced during trial. The birth certificate shows that the victim was born on 26.11.2003. The alleged incident occurred in 2019. On simple calculation it is evident that the victim was approximately 16 years old on the date of occurrence of the alleged incident. The Ext-P-6 proves that on the date of incident victim was 16 years old. There is no iota of proof to discard this documentary evidence. Nothing is available from evidences on record to raise doubt and suspicion with regard to the nature and genuineness of the Ext-P-6. Thus, the prosecution has established the basic requirement of law to prosecute the accused under the Protection of Children from Sexual Offence Act, 2012.

Victim Girl (P.W-1) deposed that since January 2018 she had been attending to tuition class. After 08 months accused started to cause disturbances to her. At about 7:00 A.M while she had been going to tuition class the accused restrained her way. She was given proposal to accompany him to some place. She refused, therefore, accused blackmailed her by saying that if she does not accompany him then he would commit suicide. P.W-1 further deposed that after 10 minutes she accompanied the accused to Mathura Tea Garden. He took her photographs with threatening that if she ceases relationship then he would publish those photographs. Accused then committed rape upon her. She then returned home. After three days she was again taken to back side of Krishi Viswa Vidyalaya and subjected her to rape.

P.W-1 further deposed that after lapse of 10-12 days she went to the house of accused. She had been dragged into the room where she takes tuition. Thereat she had been subjected to rape. The incident of committing rape upon VG had been seen by wife of accused person. His wife then informed father of victim who then lodged complaint.

In cross-examination P.W-1 admitted that she used to take tuition at the house of accused person. P.W-1 admitted that a pucca road runs adjoining to Krishi Viswa Vidyalaya. She stated that it takes 45 minutes by cycle to reach the tea garden. She walks on pucca road to go to school. There are shops on both sides of the road.

Testimonies of victim show that despite presence of wife of accused at home, accused committed rape upon the victim. It is hard to swallow that a man of ordinary prudence, despite presence of his wife, would commit rape upon a girl inside the room used as coaching class.

It is available from her evidences that she on multiple occasions accompanied the accused to various places such as tea garden, university where she has been subjected to rape. It is found that on none of the occasions the victim tried to put resistance to accused when he advanced to commit rape upon her. The manner of occurrence of the alleged incidents of rape is not disclosed by victim. She never refused accused when he made preparation for committing rape. There is nothing available on record showing that victim ever tried to flee away from the tea garden or the campus of the university when accused took preparation to commit rape upon her. Furthermore the exact location of the commission of alleged incidents of rape are not available from testimonies of VG. It is not clear as to why the victim on repeated days accompanied accused instead of informing her parents. It is peculiar to find that victim despite being raped by accused at Mathura tea garden, again accompanied her to back yard of the university. It can not be

believed that victim despite knowing the presence of wife of accused, in the house of accused i.e at tuition class, never sought for help accused person's wife when accused committed rape upon her.

The alleged incidents of rape firstly occurred at tea garden then inside bushed behind the university. If the incidents of rape occurred at these places then victim ought to have suffered injuries on her person. However, victim in her oral evidences never stated that she ever suffered injuries on her person during alleged incidents of rape at tea garden and bushes behind university. It is hard to believe that a girl would remain quiet if she is actually subjected to rape by a person. No girl would accompany any person who actually subjected her to rape.

Victim in her statement u/s 164 CrPC never stated the facts which she deposed before this court. There are major differences between her previous statement u/s 164 CrPC and her oral testimonies. Thus, Ext-P-2 loses it's evidentiary value.

Father of VG (P.W-2) adduced that about three months back accused used to restrain his daughter. One day victim did not attend the tuition class which P.W-2 had no knowledge. Teacher of victim informed him that victim had not attended the tuition class. P.W-2 therefore, sent her younger daughter to search victim, but it was of no effect. Once the victim returned home, she had been scolded by P.W-2. The latter deposed "*victim disclosed that accused took her to road situated adjacent to Pundibari bazar. Again accused took victim to Mathura. **But no further incident took place.***" Such quoted testimonies of father of victim is a major contradiction with testimonies of victim.

In cross-examination P.W-2 deposed that Saraswati filed a rape case which had been resolved. P.W-2 denied that due to land dispute the present case is brought against the accused person.

Mother of VG (P.W-3) deposed that accused used to disturb her daughter on her way to tuition class and returning

back. Victim had been taken to Mathura tea garden and subjected to rape. Again VG was taken to rear side of the university and subjected to rape.

In cross-examination P.W-3 admitted that her residence is situated adjacent to the residence of accused person. She admitted further that her family and accused follow the same road whenever they go to some place.

These testimonies of P.W-3 reveal that accused is adjacent resident of the victim's house. It means that family of victim ought to have seen the victim going with accused. Her evidence does not corroborate the evidence of victim that latter has been subjected to rape by accused at her tuition class.

Sister of VG (P.W-4) deposed that accused used to disturb VG whenever that latter returned home from tuition class. The victim was given indecent proposals by accused person. P.W-4 further stated that victim had been taken to Mathura tea garden and subjected to rape by accused person. Again on another day accused lifted victim and took her to Krishi Biswa Vidyalaya. There she had been subjected to rape by accused persons. After being informed of the incidents P.W-4 informed her parents who then lodged complaint.

In cross-examination P.W-4 deposed that victim left home at 6:00 A.M and she returned home at 2:00 P.M to 3:00 P.M. After returning home victim never divulged the alleged incident of rape. P.W-4 further stated that after lapse of four months since occurrence of first incident, victim disclosed the incident to her family. No man of ordinary prudence would believe that a girl despite being rape would remain quiet instead of disclosing such incident to her family. No reason is assigned by P.W-4 with regard to silence of victim about occurrence of such incident against her.

P.W-4 further admitted that several FIRs have been lodged against accused person by her family. Similarly accused too lodged FIR against the family of victim. Such admission of P.W-4

reveals that parties to proceeding are involved in several lis against each other.

Swapna Barman (P.W-5), Rakhi Barman (P.W-9) have not supported the prosecution story.

Ranjit Barman (P.W-6) deposed that accused used to stalk the victim and gave indecent proposals. In this manner in 2019 victim has been kidnapped by accused person, then subjected to rape. Subsequently the victim was taken to Mathura tea garden and inside bushes situated behind Krishi Biswa Vidyalaya then subjected her to rape. P.W-6 deposed further that victim informed her mother thereafter complaint had been lodged.

P.W-6 deposed in cross-examination that before 15 days of lodging FIR accused had taken victim to Mathura tea garden. Within few days of visiting the garden, accused took VG to the forest at Krishi Biswa Vidyalaya.

The above referred testimonies show that P.W-6 has no direct knowledge of the alleged incidents. The testimonies of P.W-6 are found to be in contradiction with evidence of victim.

P.W-6 admitted that accused had lodged complaint against family of victim for committing theft and damage of his grocery shop.

Dr. Jogesh Chandra Barma (P.W-7) being medico-legal witness proved the medical report (Ext-P-1). His evidence does not help prosecution case.

Dr. Pranabesh Bharatee (P.W-12) proved the potency test report.

The evidence of scribe (P.W-8) is found formal in nature.

P.W-10 and P.W-11 being police constable accompanied victim to hospital for her medical examination as well as to court for recording her statement u/s 164 CrPC.

P.W-13 being I.O stated that she never visited tea garden during course of investigation. I.O has drawn two sketch maps of the alleged places of occurrences. According to victim the incidents of rape occurred at Mathura tea garden then inside

bushes behind Krishi Biswavidyalaya and lastly inside the room where she attends tuition class. Ext-P-10 shows that P.O is verandah of house of accused person. There is nothing available from oral evidences and FIR that alleged incident of rape occurred on verandah of house of accused person. Thus, this documentary evidence is grossly inconsistent with evidence of witnesses. Again another sketch map (Ext-P-11) shows that alleged P.O is paddy field situated behind Krishi Biswa Vidyalaya. Again victim never deposed that alleged incident of rape occurred in the paddy field situated behind Krishi Biswa Vidyalaya. There is no case of prosecution that incidents of rape occurred at paddy field or on verandah. Hence, both sketch maps are inconsistent with prosecution story and thereby serves as major lacunae.

On evaluating oral and documentary evidences on record it is perceived that none of the witnesses has deposed probable date and time of occurrence of alleged incidents of sexual assault. Inconsistencies found in oral evidences are so gross that credit of the witnesses are thoroughly impeached. The attending circumstances as available from oral and documentary evidences undoubtedly show that occurrence of incidents in such manner and at such places are highly improbable.

In view of the discussions made above it is evident that there is no cogent and reliable evidences to establish the guilt of the accused beyond shadow of reasonable doubts. Thus accused person is entitled to be acquitted.

Hence, it is,

ordered

That sole accused person namely Bimal Roy is acquitted u/s 235(1) Cr.P.C from the charge u/s 6 of POCSO Act.

Accused be released from his bail bond. Sureties be discharged from their respective 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	Bimal Roy	01.12.2019	29.02.2020	Under Section 6 of POCSO Act.	Acquitted	Not Applicable	90 days.

Typed and Corrected by me.

Sd/-

Additional Sessions Judge,
2nd Court, Cooch Behar

Sd/-

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