



HIGH COURT FORM NO. 9(J)2

**HEADING OF JUDGMENT OF SESSIONS CASE
DISTRICT- DARJEELING.
IN THE ADDITIONAL SESSIONS JUDGE,
3RD COURT, DARJEELING.**

PRESENT : Akhilesh Kumar Pandey
Additional Sessions Judge,
3rd Court, Darjeeling (In-Charge)

J.O. Code: WB00784

Date of Judgment: 13th March, 2026.

Sessions Case No. 09 of 2024

Reg. No. 09 of 2024

CNR No. WBDJ-010003522024

(Arising out of Rangli Rangliot PS case No. 26 of 2019 dated 25.08.2019 under Sections 376/511 of IPC.)

State of West Bengal

-Vs-

Sabin Kumar Chhetri Accused.

Charge : 376/511 of IPC

This case coming up for final hearing on 11.03.2026 in presence of

Shri Rakesh Dhaniwal Learned Public Prosecutor in-charge

Sri Sushant Rai Learned Advocate for accused

And having stood for consideration to this day, the Court delivered the following

PART 1

FORM B

Date of Offence	25.08.2019
Date of FIR	25.08.2019
Date of charge sheet	06.12.2019
Date of Supplementary charge sheet	No
Date of framing charge	18.10.2024
Date of commencement of evidence	21.11.2024
Date of judgment	13.03.2026.
Date of sentencing order, if any	Nil

DETAILS OF ACCUSED

Rank of the Accused	Name of Accused	Date of arrest	Date of released 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
(1)	Sabin Kumar Chhetri	29.08.19 (surrender)	29.08.19	Charge u/s 376/511 of Indian Penal Code	Acquitted	Nil	Nil

Form C

LIST OF PROSECUTION/DEFENCE/ COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)

PW-1	Prosecutrix	Victim /de-facto complainant.
PW-2	Smt. Suraksha Dewan	Relative of the victim
PW-3	Sri Bikash Dewan	Husband of the victim
PW-4	Smt. Urmila Subba	Wife of accused
PW-5	Smt. Bandhana Subba	Co-villager of the victim
PW-6	Smt. Doma Sherpa Rai	Co-villager of the victim
PW-7	Sri Nima Tshering Sherpa	The Investigating Officer of the case

C. COURT EXHIBITS:

Sr. No.	Exhibit Number	Description
01	Exhibit-1	The written complaint
02	Exhibit-1/1	The endorsement on the written complaint
03	Exhibit-2	The statement of the victim recorded u/s 164 CrPC.
04	Exhibit-3	The formal FIR
05	Exhibit-4	The rough sketch map along with index

J U D G M E N T

In this present case the accused, namely Sabin Kumar Chhetri stood trial for offence punishable u/s 376/511 of IPC and on considering the evidence of the prosecution witnesses the Court passes the following judgment as hereunder:-

The fact of the case of the prosecution in short is that the victim appeared before the OC, Rangli Rangliot PS on 25.08.2019 and submitted a written complaint stating the fact to the effect that she has been subjected to sexual assault and harrassment by the Secretary of their Local Samaj namely Sabin Chhetri of Takdah Cantonment. She further alleged that few months ago, when she went to his resident to get death certifice of her great grand father and accused person suddenly caught her and asked for sexual favour for doing her work. She vehemently rejected his proposal and warned him of the consequences but the accused did not pay any heed towards her words and accused then sent messages through whats app asking for sexual favour and accordingly she prayed

for taking necessary legal action against the accused Sabin Kumar Chhetri under the law.

On the basis of the written complaint of the complainant Rangli Rangliot PS Case no.26/2019 dated 25.08.2019 u/s 354 of IPC was started against the sole accused Sabin Kumar Chhetri and investigation was taken up.

After completion of the investigation charge-sheet was submitted in this case by the police u/s 354/376/511/506 of the IPC against the sole accused Sabin Kumar Chhetri.

Cognizance was taken and after compliance of the legal formalities the case was committed to the Court of the Ld. Sessions Judge and from there the same was transferred to this Ld. Court for disposal.

After receipt of the case record and in course of trial on the basis of the materials available in the charge-sheet and the case diary against the accused, charge was made out against the accused u/s 376/511 of IPC. The contents of charge so made out, was read over and explained to the accused to which he plead not guilty and claimed to be tried.

The accused is also examined u/s 313 of Cr.P.C. where he plead innocence and claimed to be falsely implicated in this case. He also declined to adduce any evidence in his defence. From the trend of cross examination of the prosecution witnesses the defence of the accused is complete denial of the prosecution case.

Prosecution in course of trial examined as many as seven of its witnesses.

Now, the point of determination before this Court.

POINT FOR DETERMINATION

Now, the point for determination before this Court is that whether the prosecution has been able to prove the charges against the accused beyond all reasonable doubts.

DECISION WITH REASONS

In order to prove the charge against the accused prosecution examined as many as seven of its witnesses and the documents that have been produced in the evidence of the prosecution witnesses are marked as Exhibit-1, Exhibit-1/1, Exhibit-2, Exhibit-3 and Exhibit-4 respectively.

PW-1 the victim examined by the prosecution in her evidence identified the accused saying his name as Sabin Kumar Chhetri and he was the Secretary of the Samaj of their village. She stated that the incident took place on 21.04.2019 at noon at the house of the accused when she went to the house of accused for obtaining the death certificate of her great grand-father from the accused as he was the Secretary of Samaj of their village. The accused at the time sat for typing the certificate and all on a sudden the accused caught hold of her body and started to press her body and touched her private parts and the accused delivered the requisite certificate and she returned to her house.

PW-1 further stated in her evidence that on the very day at night she disclosed the entire incident to her younger sister Suraksha Dewan and after long hesitation for almost of a month she disclosed the incident to her husband Bikash Dewan. Since that day the accused used to sent vulgar message on her whats app requesting her sexual favour and she also abused the accused through whats app message. The witness identified the written complaint (Exhibit-1) lodged by her at Rangli Rangliot PS on 25.08.2019. She further stated that police recorded her statement at Darjeeling Court and she stated all the facts regarding the incident before the Id. Magistrate and the Ld. Magistrate recorded her statement in her presence and on understanding its contents she put her signature on the same (Exhibit-2). She further stated that she was medically examined at Takdah BPHC and then at Darjeeling District Hospital on the requisition of police.

PW-2 Smt. Suraksha Dewan stated in her evidence that she knows the accused and his name is Sabin Kumar Chhetri and the accused is her

co-villager at Takdah Cantonment, Beech Gaon. She further stated that victim is her elder sister and the name of the husband of her elder sister is Bikash Dewan. She stated that the incident took place on 21.04.2019 around noon at 1.00 hours at the house of accused. In the evening of the day of occurrence her elder sister disclosed the incident to her while she was at the house of accused to get the death certificate of her great grand father and on the day and time the accused sexually molested her. She was examined by police regarding the incident and she stated all the facts to police.

PW-3 Bikash Dewan stated in his evidence that he knows the accused and his name is Sabin Kumar Chhetri and he is his co-villager at Takdah Cantonment, Beech Gaon. He stated that the victim is his wife and the incident took place in 2019 on the 4th day of April at around noon at the house of accused and after 2/3 months of the occurrence of the incident he learnt about the occurrence on seeing the message on the mobile phone of his wife on being shown by his wife and in the message the nude picture of the accused was seen by him.

PW-3 further stated in his evidence that after ½ months of seeing the nude picture of accused on the mobile phone of his wife, his wife disclosed to him that on the day and time of the occurrence the accused sexually molested her at his house and on the day and time his wife was at the house of accused to get the death certificate of his father Harka Bahadur Dewan and thereafter he along with his wife went to Rangli Rangliot PS and reported the occurrence. He was examined by police regarding the incident and he stated all the facts known to him to police.

PW-4 Smt. Urmila Subba stated in her evidence that she knows the accused and his name is Sabin Kumar Chettri and he is her husband. She further stated that the victim who is their co-villager being resident of Beech Gaon, Takdah Cantonment and she had made arrangement for grant of job card in respect of MNREGA scheme in the name of victim and for the purpose she had visited her house once. She can not recollect whether victim visited her house on 21.04.2019. Victim had visited her

house only once for getting job card and OBC certificate. Police had examined her regarding the incident.

PW-5 Smt. Bandhana Subba stated in her evidence that she knows the accused and his name is Sabin Kumar Chhetri and he is the husband of her full sister Urmila Subba. She further stated that victim is her co-villager and she had lodged complaint against the accused alleging sexual assault committed upon her by accused. She stated that after the death of her husband she started living with her sister Urmila Subba at her house.

PW-5 further stated in her evidence that long ago once victim came at the house of her elder sister while she was there in the house. She stated that she has no idea why victim has lodged the complaint against the accused. She stated that police has examined her regarding the incident.

PW-6 Smt. Doma Sherpa Rai stated in her evidence that she knows the accused and his name is Sabin Kumar Chhetri and he is her neighbour. She further stated that victim is co-villager and her house is a little bit away from her house and she has lodged complaint against the accused alleging sexual assault committed upon her by accused. She further stated that she has no idea why victim had lodged complaint against the accused.

PW-7 SI of police Nima Tshering Sherpa stated in his evidence that at present he is posted as SI of Darjeeling Sadar PS and on 25.08.2019 he was posted at Rangli Rangliot PS as SI of police and on that day as per endorsement made by the then OC, Rangli Rangliot PS Sri Diganta Mukherjee on the written complaint (Exhibit 1/1) he took up the charge of investigation of Rangli Rangliot PS Case no. 26 of 2019 dated 25.08.2019 u/s 354 IPC. In course of investigation of the case he prepared the formal FIR (Exhibit-3), prepared the rough sketch map of the PO along with index (Exhibit-4). He examined the available witnesses and recorded their statements u/s 161 CrPC. He arranged the recording of statement of victim u/s 164 CrPC. He made arrangement for the medical examination of victim at Takdah BPHC and then at Darjeeling Sadar Hospital and on

completion of investigation he submitted the charge sheet against the accused for commission of offence punishable u/s 376/511 of IPC.

I have heard argument from the Ld. PP in charge for the prosecution as well as the Ld. Advocate for the accused and have gone through the evidence of the witnesses examined for the prosecution as well as the documents and the materials exhibited in evidence.

The case of the prosecution in a nutshell is that few months ago, when she went to the residence of the accused to get death certificate of her great grand father the accused suddenly caught her and asked for sexual favour for doing her work. She vehemently rejected his proposal and warned him of the consequences but the accused did not pay any heed towards her words and accused then sent messages through whats app asking for sexual favour.

Out of the seven witnesses examined by the prosecution in this case PW-1 is the victim, PW-2 is the sister of the victim, PW-3 is the husband of the victim, PW-4 is the wife of the accused and PW-5 and PW-6 are two independent witnesses and PW-7 is the IO of this case.

PW-1 the victim who lodged the complaint before the police in the written complaint did not mention any date of the incident. As per the complaint lodged by the victim the said complaint was lodged on 25.08.2019 and it was alleged in the complaint that few months back the incident took place.

The victim in her evidence stated that on the very day of the incident she disclosed the entire incident to her younger sister and after one month of hesitation she disclosed the incident to her husband whereas the victim in her written complaint nowhere stated that on the night of the incident she disclosed the entire incident to her younger sister.

PW-2 the sister of the victim in her evidence stated that in the evening of the day of the incident her elder sister disclosed the incident to her.

The victim stated that on the very night of the day of the incident she disclosed the incident to her younger sister whereas the younger sister

of the victim in her evidence stated that in the evening of the day of the incident her elder sister disclosed her about the incident.

The victim in her evidence stated that after long hesitation for almost one month she disclosed the incident to her husband whereas PW-3 the husband of the victim in his evidence he stated that after 2/3 months of the occurrence he learnt about the incident seeing the message on the mobile phone of his wife and that in the message he has seen the nude picture of the accused and after 1/2 months of seeing the nude picture of the accused on the mobile phone of his wife she disclosed the incident to him.

The evidence of the wife of PW-3 that after long hesitation for almost one month she disclosed the incident to her husband, contradict to what has been stated by the husband of the victim in his evidence and what has been stated by the victim is relied that after long hesitation for almost one month she disclosed the incident to her husband then for what they waited for another three months to lodge the complaint with the police.

As per the evidence of PW-4 that the victim came to their house only once at the time of MNREGA scheme for grant of her job card and that she can not recollect whether the victim visited their house on 21.04.2019 or not.

PW-5 in her evidence she stated that she has no idea why the victim has lodged the complaint against the accused and PW-6 also in her evidence she stated that she has no idea why the victim has lodged the complaint against the accused.

PW-7 is the Investigating Officer who investigated the case visited the PO got the victim examined medically prepared the rough sketch map of the PO and examined the available witnesses and after completion of investigation submitted the charge sheet against the accused has not seized the said death certificate which was obtained by the victim from the accused on the day of the incident I.e the death certificate of her great grand father.

The vulgar messages sent by the accused on the mobile phone of the victim on whats app also not the nude picture of the accused seen by the husband of the victim in her mobile phone also not shown by victim to the IO which cast a doubt on the prosecution case.

All the witnesses PW-1, PW-2 and PW-3 are interested witnesses and their evidence are itself contradictory to each other and in the absence of any corroborative evidence to the evidence of the victim the evidence of interested witnesses appears not trustworthy to rely upon the same and to hold the accused guilty of the offence charged and as such the charges against the accused that the accused attempted to commit rape of the victim remains not proved and is hereby given a go bye.

In view of the evidence and the discussions made herein above, it is very much clear that the prosecution has not been able to prove that the accused Sabin Kumar Chhetri attempted to commit rape of the victim in his house beyond all reasonable doubt and extending the benefit of doubt in favour of the accused, the accused is entitled to be acquitted of the charge.

In the result the prosecution case fails.

Hence, it is

ORDERED

that the accused, namely Sabin Kumar Chhetri is found not guilty of the offence and is acquitted u/s 235(1) of Cr.P.C for the offence punishable u/s 376/511 of the I.P.C.

In view of the provisions u/s 437A of CrPC, the accused on bail to continue to remain on same bail bond for the period of next six months.

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

Let a copy of this Judgment be sent to the victim through District Magistrate, Darjeeling for her information that she has right to prefer an appeal against the judgment.

Dict. & Corr. By

Sd/-
Judge

Sd/-
Additional Sessions Judge,
3rd Court, Darjeeling
(In Charge)