

FORM A

IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE-
CUM-SPECIAL JUDGE,(POCSO), KALIMPONG

Present:

Sri Bikash Lama (J.O. Code: WB00935)
Additional Sessions Judge-cum-Special Judge,
(POCSO), Kalimpong

DATE OF DELIVERY OF JUDGMENT: 09.07.2026

Special (POCSO) Case No. 9 of 2022
CNR No.WBDJ070001602022
C.I.S. No.13 of 2022
(Arising out of Gorubathan Police Station Case No. 16 of 2022)
(Details of FIR/Crime and police station)
Gorubathan Police Station Case No. 16/2022 dated 08.06.2022, under
section 6 of the Protection of Children from Sexual Offences Act,
2012 read with section 506 of the Indian Penal Code, 1860 .

Complainant	State of West Bengal, on the written complaint of Smt. Kabita Tamang @ Pradhan, Para-Legal Volunteer, District Legal Services Authority, Darjeeling, and President, Gorkha Women's Welfare Forum.
Represented by	Ms. Nisha Rai, Ld. Addl. Public Prosecutor.
Accused person	Fursanga Sherpa S/O Late Pemba Sherpa, resident of Lepcha Gaon, Doorkhola, Samabiyong Tea Garden, P.S. Gorubathan, District Kalimpong.
Represented by	Ld. Defence counsel, Mr. U.R. Choudhury

Special (POCSO) Case No. 9 of 2022
Special (POCSO) Trial No. 3/December/2022
(CENTRAL FILING NO. 13 OF 2022)

FORM B

Date of offence	25.04.2022, and on diverse dates thereafter, up to and including 22.05.2022
Date of FIR	08.06.2022
Date of Charge sheet	05.08.2022 (Charge Sheet No. 25/22); Supplementary Charge Sheet No. 10/23 dated 27.03.2023
Date of framing of charge	08.12.2022
Date of commencement of evidence	21.07.2023
Date on which judgment is reserved	16.06.2026
Date of Judgment	04.07.2026
Date of sentencing order, if any	09.07.2026

Accused Details :

Ra nk	Name of accus ed	Date of arrest/ surrend er	Date of release on bail	Offence charged with	Acq uitte d/ Con vict ed	Sentence imposed	328 Cr.P .C.
1.	Fursa nga Sherp a	08.06.2 022	Not released; in judicial custody as U.T.P. throughou t	Section 6, POCSO Act, 2012 r/w Section 506, IPC	Con victe d	<u>Rigorous Imprisonm ent for life (S.6 POCSO) with fine of Rs.10,000/-, R.I. one year with fine of Rs.1,000/- (S.506 IPC); concurrent</u>	<u>App lica ble</u>

FORM C

LIST OF PROSECUTION / DEFENCE/COURT WITNESSES

A. Prosecution:

RAN K	NAME	NATURE OF EVIDENCE
1	SURVIVOR	Survivor
2	Dorjee Sherpa	Son of the accused / seizure witness
3	Kabita Tamang @ Pradhan	Complainant / NGO President
4	Lamit Lepcha	Eyewitness
5	Jermit Lepcha	Hearsay / co-villager witness
6	Lakpa Lepcha	Hearsay witness
7	Pallavi Gurung	Hearsay witness
8	Subash Lepcha	Hearsay witness
9	Father of the survivor	Seizure witness
10	Chogel Sherpa	Hearsay witness
11	Dr. Tshering Namgyal Wangdi	Medical Officer(Gorubathan BPHC)
12	Nim Tshering Lepcha	Witness to prior conduct
13	ASI Dilip Basore	Police / escort witness
14	L/C Gangi Bhandari	Police / escort / seizure witness
15	Dr. Navina Pradhan	Medical Officer(Kalimpong District Hospital)
16	Dr. Ajay Sitling	Medical Officer (Held potency test of accused)
17	Mangalmit Lepcha	Eyewitness
18	Pranesh Thami	Court Translator
19	L/SI Dinasang Sherpa	1st Investigating Officer
20	Inspector Sourav Ghosh	Registering Officer / 2nd I.O.
21	Dr. Mousumi Rakshit	Forensic witness (RFSL, Jalpaiguri)

B. Defence Witnesses, if any :
None. The defence did not adduce any evidence.

RANK	NAME	NATURE OF EVIDENCE
N/A	N/A	N/A

C. Court witness, if any

RANK	NAME	NATURE OF EVIDENCE
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N/A	N/A	N/A
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LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:

Sl. No.	Exhibit No.	Description
1	Exbt.1	Medical examination report of SURVIVOR
2	Exbt.1/1, 1/2	Signatures of SURVIVOR on medical consent forms
3	Exbt.1/3	Statement of SURVIVOR recorded by doctor
4	Exbt.1/4	Signature of Kabita Tamang Pradhan on consent form
5	Exbt.2	Statement of SURVIVOR u/s 164 Cr.P.C
6	Exbt.2/1, 2/2	Signatures of the survivor on certificate
7	Exbt.3	Seizure list 08.06.2022
8	Exbt.3/1,3/2 and 3/3	Signatures of the survivor, P.W. 3 and P.W. 14 on the seizure list dated 8.6.2022.
9	Exbt.4	Original Birth Certificate of SURVIVOR
10	Exbt.5	Seizure list dated 08.06.2022
11	Exbt.5/1, 5/2	signatures of P.W. 2 and P.W. 14 on the seizure list dated 8.6,2022
12	Exbt.6	Written complaint
13	Exbt.6/1	Endorsement of P.W. 20 on the FIR
14	Exbt.7/1	Signature of P.W. 3 on statement of the survivor
15	Exbt.7/2	Signature of P.W. 14 on emergency room ticket of the survivor
16	Exbt.8	Statement of P.W. 3 recorded under section 164 of Cr.P.C.
17	Exbt.8/1–8/5	Signatures of P.W. 3 including translator's signature on the statement of P.W. 3 recorded u/s 164 Cr.P.C

**Special (POCSO) Case No. 9 of 2022
Special (POCSO) Trial No. 3/December/2022
(CENTRAL FILING NO. 13 OF 2022)**

Page 5 of 31

18	Exbt.9	Statement of P.W. 4 recorded u/s 164 Cr.P.C
19	Exbt.9/1–9/4	Signatures of P.W. 4 , including translator's signature on the statement recorded u/s 164 Cr.P.C
20	Exbt.10	Medical examination report / provisional diagnosis of Dr. Tshering Namgyal Wangdi
21	Exbt.11/1	Signature of P.W. 13 on consent form
22	Exbt.12/1	Seizure of P.W. 13 on the seizure List dated 13.06.2022
23	Exbt.13/1	Signature of P.W. 13 on Exhibits challan to RFSL, Jalpaiguri
24	Exbt.14	Receipt of Challan
25	Exbt.15/1	Signature of P.W. 14 on the Seizure list dated 10.06.2023
26	Exbt.16, 17	Discharge certificates of SURVIVOR
27	Exbt.18	Medical examination report of accused
28	Exbt.19	Seizure list dated 10.06.2022
29	Exbt.19/1	Signature of P.W. 17 on the seizure list 10.06.2022
30	Exbt.20	Statement of P.W. 17 recorded u/s 164 Cr.P.C. s
31	Exbt.20/1–20/4	Signatures of P.W. 17 including translator's signature on the statement recorded u/s 164 Cr.P.C
32	Exbt.21	Rough sketch map with index of 1 st place of occurrence
33	Exbt.22	Prayer for recording statements of the witnesses u/s section 164 Cr.P.C
34	Exbt.23	Prayer for holding capability test of the accused
35	Exbt.24	Rough sketch map and index of 2nd place of occurrence

Special (POCSO) Case No. 9 of 2022
Special (POCSO) Trial No. 3/December/2022
(CENTRAL FILING NO. 13 OF 2022)

36	Exbt.25	Rough sketch map and index of 3rd place of occurrence
37	Exbt.26	Prayer for recording statement of defacto complainant u/s section 164 Cr.P.C
38	Exbt.27	Formal FIR
39	Exbt.28	Forensic Biology Report of RFSL, Jalpaiguri dated 02.03.2023

B. Defence :

Sr. No.	Exhibit Number	Description
N/A	N/A	N/A

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
N/A	N/A	N/A

D. Material Objects :

Sr. No.	Exhibit Number	Description
1	Mat Exbt-I	One white half-pant, one black track-pant, one black coloured innerwear and one red coloured T-shirt of the accused
2	Mat Exbt-II	One frock, one T-shirt and one innerwear of the survivor

INTRODUCTORY REFLECTION

1. This case compels the Court to confront a form of predation that thrives precisely where a child's defences are weakest. The Survivor in this case, a girl of about eleven years, motherless since her early childhood, living with a father who has a speech and hearing impairment and a grandmother who is deaf was, by the prosecution's case, sexually violated repeatedly over the course of nearly a month by a co-villager old enough to be her

grandfather. He is alleged to have lured her with biscuits and chocolates, taken her to secluded stretches of jungle and riverside, and silenced her with threats. That her own household could not intervene, not from want of love, but from the very disabilities that made her an easier target, makes the breach of trust no less than that of a parent, for the law does not measure the depth of betrayal only by ties of blood; it measures it also by the trust a vulnerable child reposes, of necessity, in every adult who moves freely in and out of her world. It was not her own family, but two young women who stumbled upon the crime in progress, and a social worker who took the trouble to travel to a remote hamlet, who ultimately gave this child a voice before the law.

PROSECUTION CASE IN ESSENCE

2. The prosecution case, reduced to its essence, is as follows:-
The Survivor (her identity being withheld in terms of Sections 33(7) of the POCSO Act, 2012 and Section 228-A of the Indian Penal Code) was, at the relevant time, a child of about eleven years, , residing with her father ,who has an impairment of speech and hearing, and her paternal grandmother ,who is deaf.
3. It is the prosecution's case that on 25.04.2022, the accused Fursanga Sherpa brought biscuits/chocolates for the survivor and took her behind rock, he is alleged to have closed her mouth, forcibly undressed her, and committed penetrative sexual assault upon her, causing her pain and bleeding. He is alleged to have thereafter threatened to kill her and harm her family. The accused abducted the survivor, took her to Siliguri and also raped her 10 times.
4. SURVIVOR disclosed the incident to her grandmother, who, being deaf, could neither fully comprehend nor act upon the disclosure. The prosecution's case, corroborated by the written complaint and the Survivor's own account, is that in all she was subjected to penetrative sexual assault on about ten occasions over this period.

**Special (POCSO) Case No. 9 of 2022
Special (POCSO) Trial No. 3/December/2022
(CENTRAL FILING NO. 13 OF 2022)**

Page 8 of 31

5 Word of the incident travelled through the village from Lamit Lepcha and Mangalmit Lepcha, the villagers and Kabita Tamang @ Pradhan, a Para-Legal Volunteer attached to the District Legal Services Authority, and president of Gorkha Women's Welfare Forum, Darjeeling, finding SURVIVOR's own guardians unable to pursue a complaint owing to their disabilities, herself lodged a written complaint at Gorubathan Police Station on 08.06.2022. On the basis of said complaint, Gorubathan P.S. Case No. 16/2022 was registered under Section 6 of the POCSO Act, 2012 read with Section 506 of the Indian Penal Code.

6. Upon completion of investigation, Charge Sheet No. 25/22 dated 05.08.2022 was filed, followed by Supplementary Charge Sheet No. 10/23 dated 27.03.2023 upon receipt of the forensic report from the Regional Forensic Science Laboratory (RFSL), Jalpaiguri.

CHARGE AND COURSE OF TRIAL

7. By order dated 08.12.2022, this Court framed two heads of charge against the accused: firstly, under Section 6 of the Protection of Children from Sexual Offences Act, 2012, for having, on 25.04.2022 and repeatedly thereafter (in all about ten times), committed penetrative sexual assault upon SURVIVOR, a child below twelve years of age; and secondly, under Section 506 of the Indian Penal Code, 1860, for having, on the same occasions, criminally intimidated SURVIVOR by threatening her with injury to her person if she disclosed the assaults. The contents of the charge were read over and explained to the accused in the vernacular, to which he pleaded not guilty by saying "Kasoor Chaina" and claimed to be tried.

8. The prosecution examined twenty-one (21) witnesses in support of its case: the Survivor herself (P.W.1); the accused's son (P.W.2); the complainant (P.W.3); two eyewitnesses to the incident, namely Lamit Lepcha (P.W.4) and Mangalmit Lepcha (P.W.17); several co-villagers through whom the disclosure travelled, namely Jermit Lepcha (P.W.5), Lakpa Lepcha (P.W.6), Pallavi Gurung (P.W.7), Subash Lepcha (P.W.8) and Chogel

**Special (POCSO) Case No. 9 of 2022
Special (POCSO) Trial No. 3/December/2022
(CENTRAL FILING NO. 13 OF 2022)**

Page 9 of 31

Sherpa (P.W.10); the father of the Survivor, (P.W.9); a witness to an earlier, uncharged incident of alleged misconduct by the accused, Nim Tshering Lepcha (P.W.12); three medical officers, namely Dr. Tshering Namgyal Wangdi (P.W.11), Dr. Navina Pradhan (P.W.15) and Dr. Ajay Sitling (P.W.16); two police/escort witnesses, ASI Dilip Basore (P.W.13) and L/C Gangi Bhandari (P.W.14); the court translator, Pranesh Thami (P.W.18); the two successive Investigating Officers, L/SI Dinasang Sherpa (P.W.19) and Inspector Sourav Ghosh (P.W.20); and the forensic biologist of RFSL, Jalpaiguri, Dr. Mousumi Rakshit (P.W.21), examined through video-conferencing. Documentary and material exhibits were duly proved and exhibited through these witnesses.

9. The defence did not adduce any evidence. The defence case, to the extent discernible from the cross-examination, was one of blanket denial that no such incident occurred and that the witnesses were deposing falsely without any concrete or coherent alternative explanation being placed on record.

POINTS FOR DETERMINATION

10. The following points arise for determination in this case:

(A) Whether SURVIVOR was a child within the meaning of Section 2(d) of the POCSO Act, 2012, and, in particular, a child below twelve years of age;

(B) Whether the accused before the Court is correctly and conclusively identified as the person referred to by SURVIVOR and other witnesses;

(C) Whether the testimony of SURVIVOR is reliable and trustworthy;

(D) Whether the offence, if proved, constitutes aggravated penetrative sexual assault within the meaning of Section 5(l) and/or Section 5(m) of the POCSO Act, 2012, punishable under Section 6 thereof;

(E) Whether the accused is guilty of the offence punishable under Section 6 of the POCSO Act, 2012;

(F) Whether the accused is guilty of the offence punishable under Section 506 of the Indian Penal Code, 1860;

(G) Whether the accused has been able to rebut the statutory presumption under Section 29 of the POCSO Act, 2012; and

(H) What sentence is warranted.

**AGE OF THE SURVIVOR — A JURISDICTIONAL
THRESHOLD**

11. The original Birth Certificate of SURVIVOR (Exbt.4), issued by the Sub-Registrar, Nim Gram Panchayat, and seized under seizure list dated 10.06.2022(Exbt. 19), records her date of birth as 15.04.2011. On the basis of exhibit 4 i.e. the birth certificate, the Survivor was aged approximately below eleven years on fateful day, the date of the first charged incident.

12. This age is independently corroborated by the medical history recorded by P.W.11 (Dr. Tshering Namgyal Wangdi) and P.W.15 (Dr. Navina Pradhan), both of whom recorded SURVIVOR's age on medical documents as about eleven years, and survivor's own statement recorded under Section 164 Cr.P.C. (Exbt.2) is indicative of her age as 11 years as well. The defence raised no specific challenge to the age of SURVIVOR; no suggestion disputing her minority, or her status as a child below twelve years, was put to P.W.1 or to any witness proving the minority of the survivor. It is well settled that failure to put a material suggestion to a witness amounts to a tacit acceptance of that fact on the part of the party remaining silent.

13. On a conjoint reading of birth certificate (Exbt.4), the medical examination reports(Exbts. 1 and 10), and the unchallenged testimony on this point, this Court finds and holds that SURVIVOR was, at all material times, a 'child' within the meaning of Section 2(d) of the POCSO Act, 2012, and, further, a child below twelve years of age within the meaning of Section 5(m) of the said Act. This finding conclusively establishes the jurisdictional foundation for the applicability of the Act, and, as discussed later, brings the offence squarely within the aggravated category contemplated by Section 5(m).

IDENTITY OF THE ACCUSED

14. A point requiring specific clarification, though not seriously agitated by the defence, concerns the name by which the assailant is identified across the record. The FIR, the charge, and the police and seizure records throughout identify the accused as “Fursanga Sherpa” (also spelt “Phursangay” in certain documents). SURVIVOR, however, in her own statement recorded under Section 164 Cr.P.C. (Exbt.2), named her assailant as “Dalman Sherpa”, the name by which she knew him locally.

15. This apparent variance stands fully reconciled on the evidence. The Medico-Legal Examination Report (Exbt.1) itself records the assailant's identity as “Fursanga Sherpa (Dalman Sherpa, as known to the Survivor)”. This is further and independently corroborated by P.W.2 (Dorjee Sherpa), the accused's own son, who identified the accused in the dock as his father and confirmed that his father is known in the locality as “Dalman”. By P.W.9, P.W.10, P.W.12, P.W.17 and P.W.19, each of whom, as long-standing co-villagers or investigator, identified the accused in the dock and confirmed his alias; and by the consistent description of the accused, across every witness who claims direct or circumstantial knowledge of him

16. It is a settled principle that a variance in name, where the accused otherwise stands correctly and consistently identified in the dock and through corroborating testimony from multiple independent sources, does not vitiate the identification or the prosecution case. On the totality of this evidence, this Court has no hesitation in holding that the accused before it, Fursanga Sherpa, and the person referred to by SURVIVOR and the other witnesses as “Dalman Sherpa”, are one and the same person, and that his identity as the perpetrator of the acts alleged stands conclusively established.

**TESTIMONY OF THE SURVIVOR (P.W.1) — THE
SOUL OF THE PROSECUTION**

17. The testimony of SURVIVOR lies at the heart of the prosecution case. She was examined in court on 21.07.2023. Before recording her substantive deposition, this Court conducted a preliminary competency examination, putting to her simple questions regarding her family, her school, and matters of common observation, and satisfied itself that she was sufficiently intelligent and mature to give a rational account and understood the moral obligation to speak the truth. This Court is satisfied, and holds, that she was a competent witness within the meaning of Section 118 of the Indian Evidence Act, 1872.

18. In her examination-in-chief, SURVIVOR deposed that the accused, whom she knew as “Dalman”/Fursanga, came to her house in the month of April 2022 and took her to Doorkhola forest on the pretext of collecting vegetables; and after reaching near the tree at Doorkhola forest, he covered her face by cloth, removed her clothes and his own, and penetrated her, causing her pain and bleeding; and said sexual assault continued for half an hour and thereafter he threatened her not to disclose the incident to any person. She deposed that she told her grandmother, who did not act upon the disclosure on account of being deaf. She further deposed, with consistent particularity, to the repetition of the assault on several subsequent occasions at the accused's house, in the jungle, and by the riverside, on one occasion with the inducement of biscuits and to the incident of 22.05.2022 when two co-villagers came upon the accused while he was sexually assaulting her, and to being thereafter taken by the accused to Siliguri without her family's knowledge.

19. During cross-examination, the defence put to her an extensive series of suggestions, framed in the negative (“not a fact”) form, covering every material element of her account the fact of the incidents, the identity of the accused, the threats, the repetition of the assaults, the presence of the eyewitnesses, and the involvement of the NGO each of which she firmly denied, maintaining her account without deviation. No material contradiction was extracted by the defence during cross examination of the survivor i.e. P.W. 1 and the history she narrated to the medical officers (P.W.11 and P.W.15) remained intact and unimpeached. No motive was suggested, still less established, for her to falsely implicate a co-villager in an

offence of this gravity, with all its attendant social consequences for herself and her family.

20. The manner in which SURVIVOR narrated the sequence of events, the specific ruse used to lure her, the choice of secluded locations, the nature of the threats, her grandmother's inability to intervene, the detail of being surprised by the two eyewitnesses, and the subsequent, otherwise inexplicable, visit to Siliguri bears the unmistakable stamp of lived experience rather than tutoring. It would require no ordinary imagination, and no ordinary courage, for a child of this age, situated as she was, to fabricate and consistently maintain, across a preliminary statement, a judicial statement, medical disclosures, and a thorough cross-examination, an account implicating a co-villager in her own sexual violation.

21. The Hon'ble Supreme Court has, in a consistent line of authority, held that the testimony of a Survivor of sexual assault, if it inspires confidence, is by itself sufficient to sustain a conviction, and that corroboration is a rule of prudence and not a requirement of law.

22. **In State of Punjab v. Gurmit Singh, (1996) 2 SCC 384**, the Hon'ble Supreme Court held that the testimony of a Survivor of sexual assault is entitled to great weight and, if found to be reliable and trustworthy, can by itself form the basis of a conviction without insistence on corroboration; the Court further cautioned that repeated and unnecessary subjection of such a witness to searching, insinuating cross-examination in pursuit of minor discrepancies serves only to compound the original injury.

23. **In State of Maharashtra v. Chandraprakash Kewalchan Jain, (1990) 1 SCC 550**, it was held that a survivor of a sexual offence cannot be equated with an accomplice, that there is no rule of law requiring her evidence to be corroborated, and that she stands on a footing at least equal to, if not higher than, an injured witness, since the injury she suffers is both physical and psychological.

24. In the present case, however, this Court is not called upon to rest a conviction upon the solitary testimony of the Survivor alone, exacting as that standard already is. Her account, as

elaborated in the following sections of this judgment, stands corroborated in material particulars by the direct testimony of two independent eyewitnesses who caught the accused in the very act, by the medical evidence of two attending doctors, and by the recovery of biological trace evidence on her clothing. This Court finds the testimony of SURVIVOR to be wholly reliable, consistent, and of sterling quality, unshaken by cross-examination, and holds it to be the solid cornerstone upon which the rest of the prosecution case rests.

**TESTIMONY OF THE EYEWITNESSES (P.W.4 AND
P.W.17) — STERLING CORROBORATION**

25. Of singular importance to this case is the direct ocular testimony of **Lamit Lepcha (P.W.4) and Mangalmit Lepcha (P.W.17)**, two young co-villagers who, by sheer happenstance, came upon the accused while the offence was actually in progress. P.W.4 deposed that on 22.05.2022 (a Sunday), at about 2:30p.m., she and P.W.17 went to the jungle near Doorkhola to collect vegetables and ferns, heard a girl screaming, and, upon going to investigate, found the accused, undressed below the waist, sexually assaulting SURVIVOR, who was fully undressed. She deposed that they attempted, without success, to record the incident on a mobile phone, out of fear of the accused's reputation for violence in the locality, and that they thereafter withdrew and reported the matter to co-villagers, including Subash Lepcha, who in turn contacted the NGO.

26. Mangalmit Lepcha, P.W.17, corroborated this account in materially identical terms the same date, the same place, the same description of the accused and the Survivor, and the same attempt, and failure, to record video evidence. Their statements under Section 164 Cr.P.C. were duly recorded before the Learned Judicial Magistrate during the phase of investigation, through a court-appointed interpreter, thereby ruling out any possibility of subsequent embellishment or coaching. Both identified the accused in the dock and confirmed SURVIVOR as the child they had seen being assaulted.

27. In cross-examination, the defence could extract no material contradiction from either witness. Both denied every suggestion put to them that the incident had not occurred, that they had not witnessed it, or that they were deposing falsely at the instance of SURVIVOR's family or the NGO. Neither witness has any relationship with SURVIVOR's family, nor any shown motive of enmity towards the accused; on the contrary, P.W.4 candidly admitted that she and P.W.17 did not even confront or challenge the accused at the spot, being two young women who felt unable to intervene against a man with a reputation for violence, a detail that itself lends the ring of truth to their account, since a fabricated story would ordinarily be embellished with an act of heroism rather than an admission of helplessness.

28. This Court finds P.W.4 and P.W.17 to be sterling witnesses in the fullest sense: their account of the incident of 22.05.2022 has remained consistent from their statements recorded under Section 164 Cr.P.C., to their deposition in court years later, and it coheres in every particular with the testimony of SURVIVOR herself and with the medical evidence discussed below.

29. The direct ocular corroboration furnished by P.W.4 and P.W.17 elevates this case well beyond the paradigm addressed in Gurmit Singh (supra), where a conviction was sustained on the solitary, uncorroborated word of the Survivor. Here, an independent act of sexual assault upon this very child, by this very accused, has been witnessed with the naked eye by two disinterested persons having no stake in the outcome of the case. Their evidence does not merely lend colour to SURVIVOR's account; it independently proves, without more, the commission of at least one complete act of penetrative sexual assault upon a child below twelve years, which by itself would suffice to sustain the charge under Sections 5(m) and 6 of the POCSO Act.

**CORROBORATION BY OTHER MATERIAL
WITNESSES — THE CHAIN OF DISCLOSURE**

30. Jermi Lepcha, P.W.5, a co-villager aged 42, deposed that on 04.06.2022, P.W.4 and P.W.17 told her of what they had witnessed on 22.05.2022, and that upon her separately

questioning SURVIVOR, the child disclosed the sexual assault to her as well. She also deposed to an earlier, unconnected incident in which the accused, while intoxicated and sheltering overnight at her house, had attempted to enter her own daughter's room, an incident addressed separately below in the section on uncharged conduct. In cross-examination, she denied the suggestion that she had fabricated the present case out of any residual grievance arising from that earlier incident, and denied deposing falsely.

31. Pallavi Gurung, P.W.7, a schoolteacher, and her husband P.W.8 (Subash Lepcha), deposed that P.W.4 and P.W.17 (sisters to P.W.7) informed them of the incident of sexual assault upon the survivor in the year 2022. The P.W.7 personally questioned SURVIVOR, who disclosed that she had been sexually assaulted by the accused on several occasions over the preceding two to three months.

32. P.W.8, upon consulting other villagers, was instrumental in alerting the NGO. Neither witness personally saw the assault, and both frankly admitted this in cross-examination, but their evidence establishes an independent and spontaneous link in the chain of disclosure, proximate in time to the discovery of the offence, and free of any element of suggestion from the investigating agency.

33. Lakpa Lepcha, P.W.6 and Chogel Sherpa, P.W.10 a cousin of SURVIVOR, gave evidence of having learnt of the incident from others in the village at around the same time, and, while their knowledge is admittedly hearsay, it is illustrative of how swiftly, and consistently, the same account of the accused's conduct travelled through the small community once the eyewitnesses spoke of what they had seen.

34. The father of SURVIVOR, P.W.9, who has an impairment of speech and hearing, identified the birth certificate of his daughter (Exbt.4) and confirmed his LTI on the relevant seizure list. His evidence, necessarily circumscribed by his condition, nonetheless corroborates the documentary proof of SURVIVOR's age and family circumstances, and, in this Court's assessment, reflects with some poignancy the very vulnerability that made this child an easier target for the accused.

35. Kabita Tamang @ Pradhan, P.W.3 the complainant, a Para-Legal Volunteer and President of a registered women's welfare organisation, deposed in detail as to how information of the incident reached her, her visit to the village on 08.06.2022, her interviews with SURVIVOR, the two eyewitnesses, and other co-villagers, her arrangement for SURVIVOR's medical examination, and her lodging of the written complaint (Exbt.6) at Gorubathan P.S. She is a wholly independent and disinterested witness with a professional and social obligation to protect vulnerable children, and no suggestion of any personal stake in the outcome of this case was, or could credibly be, put to her. Her evidence establishes, in a manner free from any taint of police interest, the very same narrative given independently by SURVIVOR and by the eyewitnesses.

36. This Court finds the cumulative effect of this chain of disclosure from SURVIVOR to her grandmother, from the eyewitnesses to co-villagers, from co-villager i.e. P.W. 8 to the NGO, each link proximate in time and free of concert to constitute compelling corroboration. The spontaneous and consistent character of these disclosures, made to different persons on different occasions before any formal investigation began, forecloses any real possibility of fabrication or tutoring.

MEDICAL EVIDENCE

37. P.W.11 (Dr. Tshering Namgyal Wangdi), Medical Officer, Gorubathan BPHC, examined SURVIVOR on 08.06.2022 at about 11:05 p.m., shortly after the FIR was lodged. He recorded, from the history narrated by SURVIVOR, a chronology of assaults substantially mirroring her testimony in court, the incidents of 25.04.2022, 30.04.2022, 07.05.2022, 11.05.2022, 20.05.2022 and 22.05.2022, the last of these being the occasion witnessed by P.W.4 and P.W.17, and the subsequent visit to Siliguri. His clinical examination found SURVIVOR alert, conscious and cooperative, and her urine pregnancy test was negative. Given her minority, he referred her to a higher centre for detailed examination by a qualified lady doctor, in keeping with the safeguard under Section 27 of the POCSO Act.

38. Dr. Navina Pradhan, P.W.15, Medical Officer, Kalimpong District Hospital, examined SURVIVOR on 09.06.2022, with the consent of P.W.3 in the absence of any available parent capable of giving informed consent. Her Medico-Legal Examination Report (Exbt.1) records a history of sexual violence substantially consistent with the account given to P.W.11 and with SURVIVOR's own testimony, and records the assailant's identity in terms already discussed above. On genital examination, she found the hymen not intact, the vaginal opening wide, and a white discharge present, with no other external genital abnormality; she recorded no external injury on the rest of the body save for tenderness in the upper occipital region of the scalp, and noted a distal humerus fracture which the hospital records attribute to an unrelated fall, and which this Court accepts as unconnected to the sexual assault and does not treat as an injury arising from the offence. Her final opinion was that the finding of an absent hymen and a wide vaginal opening was suggestive of vaginal penetration.

39. In cross-examination, P.W.15 fairly conceded, as is now well settled medical and legal opinion, that the absence of external injury does not rule out penetrative assault, particularly given the reporting delay of seventeen days from the last incident (22.05.2022) to examination (09.06.2022), well beyond the ninety-six-hour window ideal for the capture of fresh injury and given that some degree of laxity of the hymen and vaginal orifice may occur without external trauma. This Court accepts this qualification, and does not treat the absence of fresh injury as detracting from the medical opinion; rather, the medical findings, read together with the consistent and detailed history independently narrated by SURVIVOR to two separate medical officers on two separate occasions, and with the direct eyewitness account of P.W.4 and P.W.17, corroborate rather than contradict the prosecution case.

40. This Court also notes, for completeness, that no findings of anal or oral penetration were recorded, consistent with the Survivor's own account that the assaults were exclusively vaginal in nature, and that ancillary tests for HIV, VDRL, Hepatitis-B and pregnancy were all negative, a circumstance

neither here nor there on the question of guilt, since penetrative sexual assault does not require proof of infection or conception.

**MEDICAL EVIDENCE OF THE ACCUSED
(POTENCY/CAPABILITY TEST)**

41. Dr. Ajay Sitling, P.W.16, Medical Officer, Kalimpong District Hospital, examined the accused on 13.06.2022 for the purpose of ascertaining his capability of performing sexual intercourse. His report (Exbt.18) records that there was nothing to suggest that the accused was, on the day of examination, incapable of performing sexual intercourse. This evidence, while not conclusive proof of the offence by itself, negatives any suggestion, none was, in fact, raised by the defence that the accused was physically incapable of committing the acts alleged, and is a further, if modest, plank of corroboration.

**FORENSIC EVIDENCE — THE REPORT OF RFSL,
JALPAIGURI**

42. Dr. Mousumi Rakshit, P.W.21 Senior Scientific Officer (Biology), RFSL, Jalpaiguri, examined through video-conferencing, proved the Forensic Biology Report dated 02.03.2023 (Exbt.28), prepared in accordance with the DFS Forensic Biology Procedure Manual, 2005. The report records the examination of four sets of exhibits: Packet A, the accused's clothing, on which no semen or other biologically significant material was detected; Packet B, SURVIVOR's clothing, comprising a half-skirt, a vest and a panty, on which semen (spermatozoa) was detected on the half-skirt, though not on the vest or the panty; Packet C, four swabs taken from SURVIVOR (vaginal, vulval majora, vulval minora and rectal), on which no semen or other biologically significant foreign material was detected; and Packet D, the accused's buccal swab, urethral swab and urethral smears, on which no such material was detected.

43. In cross-examination, P.W.21 fairly conceded that DNA profiling of the exhibits was not conducted, as it had not been requisitioned by the investigating agency, and that the semen

detected on Exhibit B had not been subjected to further comparative chemical analysis. This Court has anxiously considered whether this limitation in the forensic exercise detracts from the reliability of the prosecution case, and, for the following reasons, holds that it does not.

44. First, the swabs and clothing were collected on 08–09.06.2022, a full seventeen days after the last of the charged incidents (22.05.2022) and considerably longer after the first (25.04.2022). It is a matter of common forensic knowledge, and was not disputed by the defence, that biological trace evidence such as spermatozoa degrades and is lost from mucosal surfaces and undergarments within a matter of days, particularly with intervening bathing, urination, and laundering all the more so for a child living an ordinary domestic and school life in the intervening period. The absence of such material on internal swabs and on undergarments after this interval is, therefore, entirely consistent with the passage of time rather than with the falsity of the allegation, whereas the detection of semen on the outer garment (the half-skirt) despite this delay is, if anything, a further and independent corroborative circumstance squarely consistent with the prosecution case.

45. Second, the absence of DNA profiling, while regrettable as an avoidable gap in investigation, does not by itself create a reasonable doubt where the identity of the perpetrator stands otherwise conclusively established through the direct, disinterested, and unimpeached eyewitness testimony of P.W.4 and P.W.17, corroborated by the consistent testimony of the Survivor herself. Forensic DNA evidence is one mode of corroboration among several recognised by law; it is not an indispensable prerequisite for conviction, particularly where, as here, the fact of the offence and the identity of the offender are independently and cogently proved by ocular testimony of unimpeachable quality.

46. This Court accordingly holds that the forensic evidence, read as a whole — the detection of semen on the Survivor's outer garment, and the plausible, undisputed explanation for the absence of trace material elsewhere given the reporting delay — lends further, if not decisive, corroboration to the prosecution

case, without in any manner detracting from the primary and sufficient evidentiary foundation laid by the Survivor's testimony and the direct eyewitness accounts.

INVESTIGATION AND PROCEDURAL EVIDENCE

47. Inspector Sourav Ghosh, P.W.20, the then Officer-in-Charge, Gorubathan P.S., deposed to having received the written complaint from P.W.3 on 08.06.2022 and registered Gorubathan P.S. Case No. 16/2022; the case was initially endorsed to P.W.19 (L/SI Dinasang Sherpa) for investigation, and later re-endorsed to P.W.20 himself by order of the Superintendent of Police, Kalimpong, following which he filed the original charge sheet on 05.08.2022 and, upon receipt of the forensic report on 06.03.2023, the supplementary charge sheet on 27.03.2023.

48. LSI Dinasang Sherpa, P.W.19, deposed in detail to the investigation conducted by her, the raid held and arrest of the accused, the seizure of his clothing (Exbt.5) and of SURVIVOR's clothing (Exbt.3), the preparation of rough sketch maps with index for three separate places of occurrence (Exbts.21, 24 and 25), the securing of SURVIVOR's medical examination at two centres, the moving of prayers for recording the Section 164 statements of SURVIVOR and the two eyewitnesses (Exbt.22) and for the capability test of the accused (Exbt.23), the seizure of SURVIVOR's original birth certificate (Exbt.19), and the dispatch of exhibits to RFSL, Jalpaiguri. P.W.13 (ASI Dilip Basore) and P.W.14 (L/C Gangi Bhandari) corroborated the procedural steps of escort, seizure, and consent within their respective knowledge, including the mandatory involvement of a lady police officer/constable in matters concerning the child Survivor. P.W.18 (Pranesh Thami), the court-appointed translator, confirmed having faithfully rendered the Section 164 statements of SURVIVOR, P.W.4, P.W.17 and P.W.3 between the English/Hindi and Nepali languages, and denied any suggestion of mistranslation.

49. The cumulative effect of this evidence is that the investigation, while not free of avoidable gaps (discussed above in relation to DNA profiling), was substantially thorough, timely,

and compliant with the special procedural safeguards mandated for child Survivor under the POCSO Act, including the recording of statements under Section 164 Cr.P.C. within days of the incident becoming known, well before the filing of the charge sheet.

THE DEFENCE CASE AND ITS INFIRMITY

50. The accused examined no witness in his defence. His case, to the extent it can be gathered from the pattern of cross-examination, was one of total denial: that no incident of sexual assault took place, that P.W.4 and P.W.17 did not witness any such incident, and that the prosecution witnesses were, in substance, deposing falsely.

51. This bare denial, unaccompanied by any concrete theory of false implication, any suggestion of enmity, or any explanation for why SURVIVOR , a child with every reason to avoid the trauma, stigma, and prolonged ordeal of a criminal trial , or P.W.4 and P.W.17 ,two co-villagers admittedly having no prior relationship of hostility with the accused or connection with SURVIVOR's family would combine to fabricate so grave an accusation, is, in this Court's assessment, wholly insufficient to raise any reasonable doubt. No civil dispute, land quarrel, personal grudge, or family rivalry involving the accused and either the Survivor's family or the two eyewitnesses' families was even suggested, let alone established. The absence of any discernible motive for false implication is itself a significant circumstance strengthening the credibility of the prosecution case.

52. This Court finds that the defence has failed to dislodge, on any material particular, the testimony of SURVIVOR, of the two eyewitnesses, or of the corroborating medical and forensic witnesses, and that the bare suggestions put in cross-examination amount to no more than a formal denial, incapable of displacing the cogent and consistent body of evidence led by the prosecution.

**PROOF OF THE OFFENCE UNDER SECTION 6 OF
THE POCSO ACT, 2012**

53. Section 3 of the POCSO Act defines ‘penetrative sexual assault’ to include the insertion, to any extent, of the penis into the vagina of a child. Section 5 enumerates the circumstances constituting ‘aggravated penetrative sexual assault’, of which clause (l) covers penetrative sexual assault committed ‘more than once or repeatedly’, and clause (m) covers penetrative sexual assault committed ‘on a child below twelve years’. Section 6 prescribes the punishment for aggravated penetrative sexual assault as rigorous imprisonment for a term which shall not be less than twenty years but which may extend to imprisonment for life, meaning imprisonment for the remainder of the natural life of the person, together with fine or with death.

54. Section 29 of the POCSO Act provides that where a person is prosecuted for an offence under, inter alia, Sections 3, 5, 7 and 9, the Special Court shall presume that such person has committed the offence unless the contrary is proved. It is, however, well settled and this Court, sitting within the jurisdiction of the Hon'ble Calcutta High Court, is bound by the exposition of the law by that Court that this presumption is not automatic or absolute; it operates only once the prosecution has first established the foundational facts of the prosecution case through cogent, reliable evidence. In **Sahid Hossain Biswas v. State of West Bengal, 2017 SCC OnLine Cal 5023**, the Hon'ble Calcutta High Court held that it is an essential prerequisite that the foundational facts of the prosecution case be established by leading evidence before the statutory presumption under Section 29 is triggered so as to shift the onus onto the accused; absent such foundational proof, the presumption cannot be pressed into service merely upon the filing of a charge sheet.

55. Applying this test, this Court finds that the foundational facts of the prosecution case namely, that SURVIVOR was a child below twelve years; that she was subjected to penetrative sexual assault, at the very least on the occasion of 22.05.2022 as directly witnessed by P.W.4 and P.W.17, and, on her own

credible and unshaken testimony, on multiple occasions besides; and that the accused before the Court is the person who committed those acts stand established by establishing probability of fundamental facts through the evidence discussed in the preceding sections. The statutory presumption under Section 29 accordingly comes into full operation against the accused, casting upon him the burden of proving the contrary.

56. The accused, having led no evidence whatsoever and having done no more than deny the prosecution case in cross-examination without any concrete alternative explanation, has palpably failed to discharge that burden, whether on the standard of proof beyond reasonable doubt or even on the lower standard of preponderance of probability.

57. Upon a comprehensive and holistic evaluation of the entire evidence, the reliable and unshaken testimony of SURVIVOR; the direct, sterling-quality eyewitness testimony of P.W.4 and P.W.17 who witnessed an act of penetrative sexual assault upon this child in progress; the corroborative testimony of P.W.2, P.W.3, P.W.5, P.W.6, P.W.7, P.W.8, P.W.9 and P.W.10 establishing a swift and consistent chain of disclosure; the medical evidence of P.W.11 and P.W.15 confirming findings suggestive of penetration; the capability of the accused as confirmed by P.W.16; the forensic detection of semen on the Survivor's clothing as proved by P.W.21; the investigative evidence of P.W.13, P.W.14, P.W.18, P.W.19 and P.W.20; and the complete failure of the defence to rebut this evidence or the statutory presumption under Section 29, this Court arrives at the firm and irresistible conclusion that the prosecution has proved that the accused committed penetrative sexual assault upon SURVIVOR, a child below twelve years, on more than one occasion. This conduct squarely satisfies both clause (l) and clause (m) of Section 5 of the POCSO Act, 2012, rendering the offence one of aggravated penetrative sexual assault punishable under Section 6 thereof.

58. It is accordingly held that the accused, Fursanga Sherpa is guilty of the offence punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012.

**PROOF OF THE OFFENCE UNDER SECTION 506 OF
THE INDIAN PENAL CODE, 1860**

59. SURVIVOR has deposed that the accused threatened of dire consequences if she disclosed the assaults to anyone, bringing the offence within the Section 506 of the Indian Penal Code, which prescribes punishment of imprisonment of either description for a term which may extend to two years, or with fine, or with both.

60. This Court finds it proved beyond reasonable doubt that the accused, with intent to prevent SURVIVOR from disclosing the offences committed upon her, threatened her with injury to her person falling under Section 506 IPC, and accordingly holds the accused guilty of the offence of criminal intimidation punishable under Section 506 of the Indian Penal Code, 1860.

ORDER OF CONVICTION

61. It is accordingly ORDERED that the accused person, Fursanga Sherpa, is found and held guilty of the offence punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012, and is further found and held guilty of the offence punishable under Section 506 of the Indian Penal Code, 1860, and he is hereby convicted therefor as per the provisions of Section 235(2) of the Code of Criminal Procedure, 1973.

62. The judgment is pronounced in open court in the presence of both sides. Before passing sentence, the convict is required to be heard on the point of sentence, which may include the adducing of evidence if he so desires, as per the provisions of Section 235(2) of the Code of Criminal Procedure, 1973. The convict, presently lodged at the District Correctional Home, Kalimpong, is directed to be produced before this Court on 09.07.2026 at 11,30 a.m. for hearing on the point of sentence, and the Superintendent, District Correctional Home, Kalimpong, is

directed to keep the convict in appropriate segregation for mental reflection.

ORDER ON SENTENCE

63. The convict, Fursanga Sherpa, has been produced before this Court on 09.07.2026 in compliance with the order dated 04.07.2026. Ld. Special P.P. and Ld. Defence Counsel are also found present in court present. The convict has been heard on the point of sentence.

64. The convict, when heard, prayed for leniency, citing his advanced age and stated that he has his wife and adopted son to look after and his adopted son is a daily wages labourer with limited means of livelihood. The convict, therefore, prayed for imposition of minimum sentenced prescribed by the law.

65. Ld. Special P.P., emphasising the gravity and repeated character of the offence, the extreme vulnerability of the Survivor, a motherless child of tender years whose surviving guardians were themselves disabled and unable to protect her, the calculated and repeated exploitation of that vulnerability over nearly a month, and the use of threats of violence to enforce silence, urged the imposition of the maximum sentence of imprisonment for life, submitting that any lesser sentence would fail to reflect either the gravity of the offence or the legislative intent behind the 2019 amendments strengthening the POCSO Act.

66. Ld. Defence Counsel, on the other hand, prayed that the minimum sentence prescribed by law be imposed, citing the age of the convict and the absence of criminal antecedent and family status.

REASONS FOR SENTENCE

67. This Court has anxiously considered the submissions of both sides. Sentencing in offences of this nature is not a mechanical exercise; it is the occasion on which the law gives concrete

expression to the value it places upon the safety, dignity, and bodily integrity of its most vulnerable citizens. The sentence must be proportionate to the gravity of the offence, responsive to its impact upon the Survivor, and calculated to serve the ends of both retribution and deterrence.

68. The following factors weigh with this Court in the present case. First, the offence falls within the most aggravated category contemplated by the POCSO Act, satisfying not one but two of the specific circumstances enumerated in Section 5, the Survivor's age below twelve years (clause (m)) and the repeated character of the assault (clause (l)) , for which the legislature has itself prescribed a minimum sentence of twenty years' rigorous imprisonment, extendable to imprisonment for life.

69. Second, the offence was not an isolated aberration but a sustained pattern of exploitation extending over nearly a month, involving, on the Survivor's own credible account, about ten separate acts of penetrative sexual assault, carried out through calculated deception (the ruse of collecting vegetables) and calculated selection of secluded locations.

70. Third, the accused deliberately targeted a child of exceptional vulnerability, motherless since early childhood, with a father who has a speech and hearing impairment and a grandmother who is deaf, circumstances which, on the facts of this case, appear to have directly enabled the accused's repeated access to her and his ability to escape detection within the household for as long as he did. The exploitation of precisely those disabilities which should have commanded greater protection for this child, rather than lesser, is a circumstance of marked aggravation.

71. Fourth, the accused reinforced his crimes with threats of violence sufficient to silence a child for weeks, and, on the occasion, he was finally discovered, compounded his conduct by taking the Survivor away to a distant town without the knowledge of her guardians, a circumstance suggestive of a continuing intent to control and isolate her.

72. Fifth, the convict has shown no genuine remorse. His defence at trial was one of complete and unqualified denial,

**Special (POCSO) Case No. 9 of 2022
Special (POCSO) Trial No. 3/December/2022
(CENTRAL FILING NO. 13 OF 2022)**

Page 28 of 31

unaccompanied by any acceptance of responsibility, even after the weight of direct eyewitness and medical evidence had been placed on record.

73. The plea in mitigation, advanced age and family dependence, while noted, cannot, in this Court's assessment, outweigh the aggravating factors enumerated above, particularly where it is the convict's own conduct that has placed such strain upon his family, and where the law does not permit an offender to derive the benefit of leniency from consequences flowing from his own wrongdoing.

74. Having regard to all the facts and circumstances discussed above, and finding no mitigating circumstance sufficient to warrant a sentence short of the maximum prescribed by law, this Court is of the considered view that the imposition of imprisonment for life is the only sentence proportionate to the gravity of the offence under Section 6 of the POCSO Act in the present case.

SENTENCE

75. The convict, Fursanga Sherpa, is sentenced as follows: (a) For the offence punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012, the convict is sentenced to undergo Rigorous Imprisonment for Life, and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only), in default of payment of which he shall undergo simple imprisonment for a further period of one (1) year. (b) For the offence punishable under Section 506 of the Indian Penal Code, 1860, the convict is sentenced to undergo Rigorous Imprisonment for one (1) year, and to pay a fine of Rs.1,000/- (Rupees One Thousand only), in default of payment of which he shall undergo simple imprisonment for a further period of three (3) months. (c) In exercise of the provision available under Section 31 of the Code of Criminal Procedure, 1973, both substantive sentences of imprisonment shall run concurrently.

76. The period of detention already undergone by the convict during investigation, inquiry, and trial shall stand set off against

**Special (POCSO) Case No. 9 of 2022
Special (POCSO) Trial No. 3/December/2022
(CENTRAL FILING NO. 13 OF 2022)**

Page 29 of 31

the substantive sentence of imprisonment in terms of Section 428 of the Code of Criminal Procedure, 1973.

77. If the fine amount is deposited by the convict, the same shall be paid over to the Survivor, over and above the compensation directed below, in terms of Section 357 of the Code of Criminal Procedure, 1973 and the applicable POCSO Rules.

78. The convict was, after pronouncement of the sentence, informed of his right to prefer an appeal and of his entitlement to free legal aid from the District Legal Services Authority, Kalimpong, or the High Court Legal Services Committee, Calcutta to which he disclosed that he has his counsel appointed from District Legal Services Authority, Kalimpong to defend him during trial and he shall go for future legal recourse only after having consultation with his counsel in near future.

**SURVIVOR COMPENSATION — SECTION 357A
Cr.P.C. READ WITH THE POCSO RULES, 2020**

79. A conviction and sentence, however severe, does not by itself discharge the law's obligation towards the Survivor of an offence of this nature. Survivor was subjected to repeated sexual violation over the course of nearly a month by a person she and her family trusted as a member of their own community, was compelled to undergo intimate medical examination and protracted legal proceedings, and has had to bear, in a small and closely-knit rural community, the burden of social visibility that inevitably attaches to a case of this kind, notwithstanding the legal protection of her anonymity.

80. Section 357 A of code of Criminal Procedure read with Rule 9(2) of the Protection of Children from Sexual Offences Rules, 2020 empowers this Court to direct payment of compensation to the Survivor from the Survivor Compensation Fund constituted under the applicable West Bengal Victim Compensation Scheme, having regard to factors including the gravity and duration of the offence, the harm and trauma suffered, the Survivor's need for rehabilitation, and her family's financial circumstances.

81. Having regard to (a) the extreme vulnerability of SURVIVOR as a motherless child of eleven years with disabled guardians; (b) the grave, aggravated, and repeated nature of the offence, extending over nearly a month; (c) the physical harm suffered, as confirmed by the medical evidence; (d) the psychological trauma, social exposure, and disruption to childhood; (e) the economic vulnerability of her family; and (f) her long-term need for counselling, education support, and social reintegration, this Court is satisfied that SURVIVOR deserves an award of substantial and meaningful compensation.

82. This Court accordingly directs that a sum of Rs.5,00,000/- (Rupees Five Lakhs only) be paid to SURVIVOR as compensation from the Survivor Compensation Fund constituted by the Government of West Bengal, over and above the fine amount, if realised, from the convict.

83. The Ld. Secretary, District Legal Services Authority, Kalimpong, is requested to initiate the process for disbursement of compensation amount at the earliest, in coordination with the West Bengal State Legal Services Authority, and to ensure that the amount is disbursed to a person legally authorised to receive it on her behalf, in a manner best calculated to serve her welfare, education, and rehabilitation. A copy of this judgment, along with the necessary documents, shall be forwarded to the Ld. Secretary, DLSA, Kalimpong, in a sealed cover, for this purpose.

MISCELLANEOUS DIRECTIONS

84. The material exhibits, Mat Exbt-I and Mat Exbt-II, be retained until the expiry of the period of limitation for appeal, and thereafter disposed of/destroyed in accordance with law; the documentary exhibits be returned to the persons from whom they were seized, as per law, after the expiry of the appeal period.

85. A copy of this judgment be forwarded to the Secretary, District Legal Services Authority, Kalimpong, for information and for onward transmission, along with the FIR, charge sheet,

**Special (POCSO) Case No. 9 of 2022
Special (POCSO) Trial No. 3/December/2022
(CENTRAL FILING NO. 13 OF 2022)**

Page 31 of 31

depositions, and exhibits, to the Hon'ble Chairman, High Court Legal Services Committee, Calcutta, for the purpose of an appeal, should the convict desire to prefer one.

86. A copy of this judgment be also forwarded to the Chairperson, Child Welfare Committee, Kalimpong, and to the District Child Protection Officer, Kalimpong, for information and for such further steps as may be necessary for the continued welfare, education, and rehabilitation of SURVIVOR

87. A copy of this judgment be also transmitted to the office of the District Magistrate, Kalimpong, for information in terms of Section 365 of the Code of Criminal Procedure, 1973, and the soft copy of this judgment be uploaded to the CIS within 48 hours of delivery, as per Rule 186A of the Criminal Rules and Orders of the Hon'ble High Court at Calcutta, with due care to ensure that no detail disclosing the identity of the Survivor is made public in that process.

88. A copy of this judgment be supplied to the convict free of cost, and a certified copy be furnished to him free of cost upon application.

89. A copy of this judgment along with photocopies of all relevant documents also be transmitted to the office of Ld. Secretary, District Legal Services Authority, Kalimpong for information and with a request to take prompt and proper step for disbursement of victim compensation as awarded by appropriate correspondence with State Legal Services Authority.

Dictated & Corrected

Sd/-

Judge, Spl. Court (POCSO)

Kalimpong

Sd/-

Judge, Spl. Court (POCSO)

Kalimpong