

Order No. 11, dated 23.12.2021

Today is fixed for hearing petition filed by the prosecution.

Accused Sambhu Debnath on C.B is present by filing hazira.

Ld. Special P.P submitted by filing an application praying for alter the charge framed against the accused.

During hearing it is submitted that from the evidence of PW-2 it came to the knowledge that the victim is a mental disable person and her treatment was continuing. It is submitted that such offence falls within the category of Section 9(k) of POCSO Act and punishable under Section 10 of the POCSO Act.

Ld. Lawyer for the accused prays for necessary order.

On perusal of case record it appears that charge framed against the accused under Section 8 of the POCSO Act on 18.11.2020. The evidence of PW-2 shows that the V.G on the day of incident or prior to the incident was not mentally fit person and her treatment is still continuing. Considering provision of Section 9(k) of the POCSO Act, charge is hereby altered to Section 10 of the POCSO Act in view of Section 216 of the Cr. P.C.

The contents of the charge under Section 10 of the POCSO Act is read over and explained to accused in Bengali language, to which he pleaded no guilty by saying 'nidosh'.

The altered charge be kept with the record in separate sheet.

In view of Section 217 of the Cr. P.C the prosecution and the accused should get an opportunity to recall and examine the witnesses, already examined, in view of the alteration of charge.

Fix **25.03.2022** and **28.03.2022** for evidence of PW-1 and PW-2 on recall.

D/C by me.

Sd/-
A.S.J.

Sd/- S. Dey (WB00679)
Additional Sessions Judge, 1st Court-cum-
Judge, Special Court, Contai.