

Present: Sourav Bhattacharya  
(J.O. Code : WB00854)  
Judge, Special (POCSO) Court, Howrah.  
Spl T R Case No.119 of 2018  
(Golabari PS Case No.515/18, dt.01.09.2018)

Order no.68, dt. 28.06.2023.

Today is fixed for appearance, production, further hearing and passing necessary order.

Four accused persons, namely, Susmita Roy @ Mampi, Amit Das, Doli Das and Rupam Basak @ Bubun Basak @ Rupak are produced from correctional home.

Other accused persons, namely, Pradip Singh and Dinesh Gupta, on Court bail, are present by filing hazira.

Rest accused person, namely, Sharad Gupta, on Court bail, is absent by filing a petition u/s 317 Cr.P.C.

Ld. P.P. Sri, Arindam Mukherjee appeared for the prosecution.

Ld. Advocate of the respective accused persons are present.

The relevant facts that need consideration at this stage which led to submit a report before the Ld. Sessions Judge are enumerated below in the following manner:-

1. Ld. Judge, Spl. Court under POCSO Act-cum-Additional Sessions Judge, 2<sup>nd</sup> Court, Howrah received the case record from Ld. C.J.M., Howrah vide Order No.1, dt.03.09.2018;
2. The then Ld. Court, i.e. Spl. Court under POCSO Act-cum-Additional Sessions Judge, 2<sup>nd</sup> Court, Howrah received the Charge-sheet being No.722/2018, against 7 accused persons for offence u/s 342/372/373/120B I.P.C., adding Section 376 I.P.C. and u/s 8 POCSO Act, addition Section 4 of POCSO Act. The said Ld. Court took cognizance.
3. Vide Order No.1, dt.28.03.2019, the said Ld. Court framed Charge against accused persons, namely, Sarat Gupta, Dinesh Gupta, Pradip Kr. Singh, Susmita Roy, Doly Das, Amit Das and Rupam Basak for offence punishable u/s 370(2)/120B I.P.C. and against accused Sarat Gupta, Dinesh Gupta and Pradip Kr. Singh for further offence punishable u/s 341/376D/120B I.P.C. It was observed in the said order that as per report of ossification test, prosecutrix was major at the time of alleged offence, for which Charge under POCSO Act was not framed.
4. The case proceeded for trial before the said Ld. Court and as many as six (06) witness have been examined till date.
5. This Court has been operationalized on 03.12.2022 and the said Ld. Court has transferred this case record to this Court vide Order No.54, dt.07.12.2022, following Order No.143/G, dt.30.11.2022 of the then Ld. District Judge, Howrah.
6. Attention of this Court was drawn on 09.12.2022 as reflected in Order No.55, dt.09.12.2022 to the effect that I.O. has filed copy of Ossification Report of victim girl and the said fact was recorded in order No.16, dt.18.03.2019 following which I.O. was directed to appear, who in turn subsequently submitted certified true copy of the Ossification Test Report of victim girl.
7. From the attested carbon-copy of the Ossification Test Report of victim girl dt.11.03.2019 forwarded by the Superintendent, District Hospital, Howrah, vide letter dt.13.06.2023 on the requisition of I.O., it is seen that the report demonstrates that the age of the victim girl is 19-20 years following which there is no doubt that the victim girl was not a minor child at the time of the alleged offence (from 25.08.2018).

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That being the position, this Court, being a dedicated POCSO Court can only deal with the cases in respect of POCSO related cases involving the child, below the age of 18 years.

Accordingly, in the given facts where the prosecutrix was major at the time of alleged offence, this Court cannot proceed with the trial.

Let this report reflected in this Order-sheet along with the copy of this order be forwarded to the Ld. Sessions Judge, Howrah under the cover of forwarding letter in terms of Section 408 of Cr.P.C. with a prayer to transfer this case record to another Court or the transferee Court as the Ld. Sessions Judge, Howrah would deem fit and proper.

Fix 12.07.2023 for appearance, production, awaiting instruction from the Ld. Sessions Judge.

Judge, Special (POCSO) Court, Howrah.

Dictated & corrected by me

Judge, Special (POCSO)  
Court, Howrah.