

Sessions (POCSO) Case No.- 67 of 2020
CIS Registration No.79 of 2020
CNR-WBJP01-003745-2020
Filing No.-2740 of 2020

Continued.....

Dated: 24.06.2026

51. The convict Baidya Chakraborty is produced from J/C. Today is fixed for hearing the convict on the point of sentence. The convict is called upon to make his submission on the point of sentence.

52. He is told that the sentence for committing penetrative sexual assault on a child below sixteen years of age under Section 4 of the Protection of Children from Sexual Offences Act, 2012 shall be punished with imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person and shall also be liable to fine

The convict pleaded

“Amake joto kom kore shasti dewa jaye apni dekhun”.

53. Ld. Spl. P.P. has submitted to pass a necessary sentence as this Court deem fit and proper. Ld. Advocate for the convict has submitted that to award minimum punishment to the convict. Considering the situation, it is submitted that a minimum punishment be given to the convict.

54. I have considered the submission of the convict very carefully. I have also considered the submission made by Ld. Spl. P.P. and Ld Advocate appearing on behalf of the convict. I find that the convict is not too young. I did not find that he committed the crime when he was disturbed extremely either mentally or emotionally. It is felt that there is no such mitigating circumstances before this Court to allow any benefit to the convict. I also find that the convict does not disclose any new material. There is, therefore, no question of further consideration.

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55. Modern penology regards crime and criminal as equally material when the question of sentence has to be considered. It turns the focus not only on the crime but also on the criminal and seeks to personalize the punishment so that the reformist component is as much operative as the deterrent element.

56. The main purpose of the sentence broadly stated is that the convict must realize that he has committed an act which is not only harmful to the society of which he forms an integral part but also harmful to his own future, both as an individual and as a member of the society. The punishment is designed to protect the society by determining potential offenders as also by preventing the guilty party from repeating the offence. The modern civilized societies, however re-formative aspect is being given somewhat greater importance. Too lenient as well as too harsh sentence both lose their efficaciousness. One does not deter and the other may frustrate thereby making the offender a hardened criminal.

57. There is the element of vindictiveness, which cannot be left out of sight. Both personal and public sentiment demand that the person who has made a child suffer unjustly, should himself be made to suffer in return.

58. In this particular case considering the degrees which is determined by the circumstances, it is felt that in exercising the discretion the convict does not call for any sympathy. The offence has been committed by him against a child victim who is the future of the society. The child has undergone sexual abuse by reason of which she had mental pain and injury. Therefore, by reason of Section 33(8) the Protection of Children from Sexual Offences Act, 2012, she is required to be compensated for her rehabilitation. At the same time, this Court should also keep in mind the principle of proportionality while imposing sentence.

59. In view of my above discussion and also taking into account the age and the future need of the victim girl, it is felt that she needs some monetary compensation for her rehabilitation and for educational opportunity to come back in the mainstream of the society.

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60. In view of order passed by the Hon'ble Supreme Court of India in **Nipun Saxena Vs Union of India** and as per **the direction of the Hon'ble High Court, Calcutta, passed in Bijoy @ Guddu Das Vs The State of West Bengal** and also in view of provision contained under **Clause 9 & 12 of NALSA's Compensation Scheme for Women Victims / Survivors of Sexual Assault / Other Crimes, 2018**, it is hereby directed that an amount of **Rs.2,50,000/- (Rupees two lakh fifty thousand only)** shall be paid to the victim girl from the Women Victim Compensation Fund/ Victim Compensation Fund of the Government of West Bengal as relief for her rehabilitation and also for her recovery from mental trauma. The interim compensation, if any, awarded in favour of the victim shall be adjusted with this final compensation.

61. Therefore, keeping in mind the entire circumstances, I feel it just to impose an appropriate sentence to the convict.

It is accordingly,

ORDERED

that the convict **Baidya Chakraborty** on being found guilty for committing an offence punishable **under Section 4 of the Protection of Children from Sexual Offences Act, 2012** be convicted under Section 235(2) Cr.P.C and is sentenced to suffer **R.I for twenty two (22) years and to pay fine of Rs.20,000/- i/d to suffer R.I for one year more.**

The fine amount, if realized, the same be given to the child victim.

The Secretary, District Legal Services Authority, Calcutta shall take necessary steps for payment of compensation to the victim girl from the Women Victim Compensation Fund/ Victim Compensation Fund of the Government of West Bengal at the earliest.

This Court, therefore, recommends the award of compensation to meet the immediate needs of the child victim for relief or rehabilitation.

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The period of detention, if any, already undergone by the convict in connection with this case be set off under Section 428 Cr.P.C against the sentence of imprisonment.

The seized alamats, if any, be destroyed after the period of appeal is over.

*The convict **Baidya Chakraborty** is told in Bengali that he has right to prefer an appeal against the order of conviction and sentence and it is also informed to him in Bengali that he has also a right to avail legal aid to prefer such appeal, if he is unable to do so with his own resources.*

*The convict **Baidya Chakraborty** after understanding the aforesaid fact duly communicated by this Court expresses his desire to prefer appeal with Legal Aid.*

In view of the above submission, let a copy of this judgement and sentence be forwarded to the Secretary, State Legal Services Authority, Calcutta, through the Secretary, District Legal Service Authority, Jalpaiguri for information and for taking necessary steps in this matter.

Let a copy of this judgement and sentence be sent to the Secretary, District Legal Service Authority, Jalpaiguri for information.

Let a copy of this judgement of conviction and sentence be forwarded to the Superintendent of Police, Jalpaiguri.

Let a copy of this judgement and sentence be supplied to the convict free of cost.

Dictated & corrected by me.

***Judge, Special Court,
(Under POCSO Act)
2nd Court, Jalpaiguri***

***Judge, Special Court,
(Under POCSO Act)
2nd Court, Jalpaiguri
J.O Code- WB00656***

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