

POCSO Case No. 144 of 2019
J.O Code No.WB00692

CIS No.144/2019
CNR No.WBML01-00-4648-2019

In the Court of the Ld. District & Sessions Judge,
2nd POCSO Special Court, Malda

POCSO Case No. 144 of 2019

Present: Sri Rajib Saha (J.O. Code No.WB00692)
Judge, Special Court,
ADJ 2nd Court, Malda.

**Ref: Gazole Police Station Case No. 37/2019 dated 28-01-2019 under
Section 4 of POCSO Act alternatively 376(1) of IPC/323/34 of IPC**

State of West Bengal

Vs.

- 1. Ajay Mandal**
- 2. Bidhubhusan Madal**
- 3. Pintu Mandal**
- 4. Sasthi Mandal**

Order No.24
22-04-2026

Today is fixed for appearance of the accused persons
and examination under Section 313 Cr.P.C./Section 351
BNSS.

The accused persons namely, Ajay Mandal,
Bidhubhusan Mandal, Pintu Mandal and Sasthi Mandal on
Court bail are present by filing *hazira*.

The case record is taken up for examination of the accused persons under Section 313 Cr.P.C./Section 351 BNSS, but on perusal of the evidence on record, no material for examination of the accused persons has transpired and as such examination of accused persons under Section 313 Cr.P.C./Section 351 BNSS is dispensed with.

The fact of the case is that father of the victim girl has lodged a complaint with Gazole Police Station on 28-01-2019 to the effect that on 27-01-2019 at about 5:00 PM his minor daughter went out from his house by saying to go to a shop but thereafter his daughter was found missing. The complainant has also stated that after search he came to know that accused Ajay Mandal with the help of accused Pintu Mandal, Sasthi Mandal and Bidhubhusan Mandal have kidnapped his daughter from a lonely place and took her towards their house.

On the basis of the aforesaid written complaint, Gazole Police Station Case No. 37/2019 dated 28-01-2019 under Section 363/365/34 of IPC addition Section 4 of POCSO Act has been started. After completion of investigation, the I.O LSI, Menoka Khatun has submitted Charge Sheet being no. 645/2021 dated 10-08-2021 under Sections 363/365/34 of IPC and under section 4 of POCSO Act against accused person namely Ajay Mandal and under Sections 363/365/34 of IPC against accused persons namely Bidhubhusan Mandal, Pintu Mandal and Sasthi Mandal.

On perusal of the materials on record and having heard

both sides Charge was framed under Section 4 of the POCSO Act alternatively under Section 376 (1) of IPC against accused person namely, Ajay Mandal and under Section 323/34 of IPC against Bidhubhusan Mandal, Pintu Mandal and Sasthi Mandal.

The Ld. P.P-in-charge has submitted that in this case from the side of the prosecution four witnesses have been examined including victim child as P.W-1, father of the victim girl as P.W-2, scribe as P.W-3 and co-villager of the victim girl as P.W4 who have not stated anything in support of the prosecution fact and as such this is a case of no evidence.

The Ld. Advocate for the accused has contended that the instant case has been filed out of misunderstanding as there was a relation of love in between the victim girl and the accused Ajay, which was not accepted by the family members of the victim girl due to her minor age but they got married subsequently. The Ld. Advocate for the accused person has submitted that accused persons must be acquitted in absence of any evidence.

In order to establish the case, prosecution has produced and examined four witnesses including victim child as P.W-1, father of the victim girl as P.W-2, scribe as P.W-3 and co-villager of the victim girl as P.W4.

The victim girl as P.W.1 has stated in her evidence that **she had relation of love with accused Ajay Mandal and her father has not accepted their relationship with Ajay and**

lodged this case falsely. This witness has been declared hostile from the side of the prosecution and permitted to cross examination in which she has denied the suggestion put to her. It will appear from her evidence that Pintu Mandal, Sasthi Mandal are elder brothers of Ajay Mandal and Sasthi Mandal lives separately from other brothers. The V.G has stated that she is living happily in her matrimonial home as she married with Ajay Mandal under Special Marriage Act on 12-07-2020.

P.W2, the father of the victim girl has stated in his evidence that his elder daughter acquainted with accused Ajay Mandal and over the same family members of accused Ajay Mandal came to his house with marriage proposal of his elder daughter with the accused Ajay, but they have denied as at that time his elder daughter was minor. The complainant has also stated that on the date of incident they went to attend marriage ceremony and his two daughters were in his house and then accused Ajay Mandal came to their house and called his elder daughter and took away her to his house. He has also stated that he after return from marriage ceremony could not find his elder daughter and then went to the house of accused Ajay Mandal and find his daughter there. The father of the victim girl has failed to say about the content of the written complaint but has stated that at present his elder daughter married with accused Ajay Mandal for last 4/5 years.

P.W4, the co-villager of the victim girl has failed to say

anything before the court and P.W3 is a scribe.

The statement of the victim girl has been recorded by the Ld. Magistrate under Section 164 Cr.P.C and before the Ld. Magistrate she has stated that on 27-01-2019 at about 8:30 PM after return from tuition she was preparing to attend marriage ceremony and then accused Ajay Mandal gagged her mouth and taken her towards the garden where he committed forceful rape upon her. The V.G has also stated that accused confined her in the garden in that night and at about 5:00 AM in the morning, accused Ajay went to his house and she followed her but his family members drove her out.

The alleged fact of kidnapping and rape upon the V.G has not been proved by the victim girl in her oral evidence on dock. The father of the V.G has stated that accused persons attended their house with marriage proposal of his daughter with accused Ajay but they have denied as at that time his daughter was minor. It will appear from the evidence of the victim girl and her father that the victim girl got married with accused Ajay Mandal subsequently and leading their matrimonial life peacefully.

Thus, it appears that there is no evidence of the alleged offence punishable under Section 4 of the POCSO Act alternatively under Section 376 (1) of IPC against accused person namely, Ajay Mandal and under section 323/34 of IPC against accused persons namely Bidhubhusan Mandal, Pintu Mandal and Sasthi Mandal and as such the prosecution

has not been able to establish any case at all.

Hence, it is

O R D E R E D

that the accused person namely Ajay Mandal is held not guilty for the offence punishable under Section 4 of the POCSO Act alternatively under Section 376 (1) of IPC and accused persons namely Bidhubhusan Mandal, Pintu Mandal and Sasthi Mandal under section 323/34 of IPC. The accused persons are acquitted from this case under section 232 of Cr.P.C./ Section 255 BNSS.

The accused persons are discharged from their bail bonds. Seized *alamat*, if any, be disposed of in accordance with law.

Dictd. & Corrted. by me,

*Judge, Special Court,
ADJ 2nd Court, Malda.*

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ADJ 2nd Court, Malda.*