

**Form A**

District : Malda	
<b><u>IN THE COURT OF THE JUDGE, SPECIAL COURT, CHANCHAL, MALDA</u></b>	
<b>Present : Shri Joy Sankar Roy (WB00858) Judge, Special Court, Chanchal, Malda.</b>	
[Date of the Judgment : The 14 <sup>th</sup> day of May, 2026]	
<b><u>Special Trial No. 84(12)/2022</u> Special Case No. 64 of 2022</b>	
(Arising out of Harishchandrapur P.S. Case No. 650/2022 dated 28-07-2022 under Section 4 of POCSO Act)	
(Details of FIR /Crime and Police Station)	
Complainant	STATE OF WEST BENGAL
REPRESENTED BY	NAME OF THE ADVOCATE- Mr. Ramen Das
ACCUSED	<b>A1. NAME WITH ALL PARTICULARS:</b> <b>Rintu Kaibarta</b> , S/o- Sankar Kaibarta, Male, aged 21 years, Hindu, resident of Arjuna, PS Harishchandrapur, District Malda.
REPRESENTED BY	NAME OF THE ADVOCATES- Rajib Ghosh

**Form B**

Date of Offence	27-07-2022
Date of FIR	27-07-2022
Date of Charge-sheet	21-09-2022
Date of Framing of Charges	06-12-2022
Date of commencement of Evidence	11-01-2023
Date on which Judgment is reserved	06-05-2026
Date of the Judgment	14-05-2026
Date of the Sentencing Order, if any	Not Applicable

**Accused details**

Rank of the Accused	Name of Accused	Date of arrest	Date of release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during
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							Trial for purpose of Section 428, Cr.P.C.
A1	<b>Rintu Kaibarta</b>	27.07.2022	06.05.2023	6 of POCSO Act.	Acquitted	N.A	27.07.2022 to 06.05.2023

**Form C**

**LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES**

**A. Prosecution:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
PW 1	XXXXXX	De facto complainant
PW 2	XXXXXX	Survivor
PW 3	Sunil Mandal	Independent witness
PW 4	Suraj Mandal	Independent Witness
PW 5	Amal Kr. Mandal	Independent Witness
PW 6	Kanchan Mandal	Independent Witness
PW 7	Soni Kumari	Civic Volunteer

**B. Defence witnesses, if any: Not Examined**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE ( EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
DW 1	NIL	NIL
DW 2	NIL	NIL

**C. Court witnesses, if any: Not Examined**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
CW 1	NIL	NIL
CW 2	NIL	NIL

**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**

**A. Prosecution:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1	Exhibit-X	The written complaint.
2	Exhibit-1	Signature of the PW-2 on the statement under Section 164 CrPC.
3	Exhibit-2/1	Signature of PW-7 on the seizure list dated 28.07.2022

**B. Defence : NIL**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1	Exhibit-	NIL
2	Exhibit-	NIL

**C. Court Exhibits : NIL**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1	Exhibit-	NIL
2	Exhibit-	NIL

**D. Material objects: NIL**

<b>Sr. No.</b>	<b>Material Object Number</b>	<b>Description</b>
1	MO 1	NIL
2	MO 2	NIL

**J U D G M E N T**

**The Charge:**

- (1) The sold accused stands charged for committing aggravated penetrative sexual assault upon the minor survivor thereby committing the offence punishable under Section 6 Protection of Children from Sexual Offences Act (in short "POCSO Act").

**The First Information Report:**

- (2) This case had its genesis in the written complaint filed by the mother of the survivor before the Inspector in Charge, Harishchandrapur P.S., Malda. On the basis of the said written complaint Harishchandrapur P.S. Case No. 650/2022 dated 27.07.2022 was registered under Section 4 of the POCSO

Act.

**The facts of the case:**

- (3) The case of the prosecution, in a nutshell is that the accused is a neighbour of the complainant. The accused developed a relationship with the minor daughter of the complainant, a student of class-XII on assurance and allurement of marrying her. Even the accused indulged in physical relationship with the minor girl. On 26/27.07.2022 at about 12 o'clock in the night the accused forcefully tried to commit rape upon the survivor at the varandah of her house. The survivor raised alarm and then the accused fled away. The survivor disclosed everything to the complainant and she lodged the complaint. Thus, in this case, criminal law was set in motion.

**The Investigation:**

- (4) Soon after the case was registered, Bikash Haldar, a Sub-Inspector of Harishchandrapur PS took up its investigation as the 1<sup>st</sup> investigating officer.
- (5) During investigation of this case it revealed to the investigating officer that the accused had love affair with the survivor and on the fateful day the accused entered into the house of the survivor and tried to forcibly rape her. Upon completion of investigation, he submitted charge sheet under Section 6 of the POCSO Act.

**Framing of Charge:**

- (6) Upon consideration of the record of the case and the documents submitted therewith and after hearing the submission of the accused and the prosecution in this behalf this court presumed that the accused has committed the offence which is exclusively triable by this court, framed in writing a charge against the accused for committing the offence punishable under Section 6 of POCSO Act. The charge was read over and explained to the accused and the accused was asked whether he pleaded guilty of the offence charged or claimed to be tried. The accused pleaded not guilty and claimed to be tried.

**The Trial:**

- (7) In order to prove the charge against the accused, prosecution has examined only 7 witnesses. The documents are marked as Exhibit P-1 and Exhibit P-2/1.
- (8) The defence side chose not to adduce any defence witness on his behalf. He remained content with cross-examination of the prosecution witnesses and denial thereof.

**Examination of the accused:**

- (9) As mandated under Section 313 of the CrPC, the accused was given due opportunity to personally explain the circumstances appearing against him in evidence. All the incriminating facts, circumstances and evidence were put to him as appeared in the testimonies of prosecution witnesses and the corresponding documents. Thereafter, he was called on for their defence. However, no oral or documentary evidence was produced by him in defence.

**Defence Case:**

- (10) Defence plea as it appears from the trend of cross-examination of prosecution witnesses and examination of the accused under section 313 of the CrPC is one of complete innocence of the accused. According to the accused, he has been falsely implicated in this case.

**POINTS FOR DETERMINATION**

- (11) The following points for determination arise in this case :-
- i) Whether A1 committed penetrative sexual assault upon the minor survivor thereby committed the offence punishable under Section 6 of the POCSO Act;*
  - ii) Whether the prosecution is able to prove the charges against the accused beyond reasonable doubt.*

**DECISION WITH REASONS:**

- (12) All the points, taken up for consideration and determination seem to be related with each other and they are taken up collectively for discussion and

adjudication for the sake of brevity of the judgment and to refrain from repetition.

**ARGUMENT:**

- (13) Learned Public Prosecutor, argued that although the accused had a love affair with the minor survivor but taking advantage he entered into the house of the survivor and committed aggravated penetrative sexual assault upon her at the varandah of her house. He submitted that the prosecution has been able to prove the charge against the accused.
- (14) Per contra, Learned Advocate for the accused submitted that the complainant has not corroborated his complaint during his evidence before this court. The other prosecution witnesses have also not corroborated the case of the prosecution. The alleged survivor has also not stated any adverse against the accused in her evidence. He argued that the prosecution has hopelessly been failed to prove the case against the accused beyond reasonable shadow of doubt. He prayed for acquittal of the accused.
- (15) It is cardinal rule of criminal jurisprudence that the accused always has a presumption of innocence in his favour and the prosecution must prove the ingredients of the offences with which the accused are charged beyond reasonable doubt. Now, let us scrutinize the evidence adduced by the prosecution during the trial in its entirety to find out as to whether the accused has committed the alleged offences beyond reasonable doubt or not.

**Evidence on record:**

- (16) PW-1, the de facto complainant stated in her evidence that she lodged a complaint with IC Harishchandrapur PS and identified the accused on dock. But she specifically stated in her evidence that nothing happened between her daughter and the accused. She had a dispute regarding land with the father of the accused, as such she lodged the complaint. She could not recollect whether she took her daughter to doctor. She also could not recollect whether police seized any articles from her.

- (17) PW-2, the survivor denied of giving any statement before the learned Magistrate. She could not recollect whether she was medically examined or not. The witness was declared hostile by the prosecution and thereafter the prosecution cross-examined her.
- (18) PW-3, PW-4, PW-5 and PW-6, all the independent witnesses have been declared hostile by the prosecution and thereafter prosecution cross-examined them. They denied of knowing the fact of this case.
- (19) PW-7, the civic volunteer proved her signature in a seizure list.

**Appreciation of Evidence:**

- (20) The burden of proof is on the prosecution to establish all the elements of the offence of which the accused are charged with.
- (21) Section 6 provides for punishment for aggravated penetrative sexual assault. It provides that whoever, commits aggravated penetrative sexual assault, shall be punished with rigorous imprisonment for a term which shall not be less than ten year but which may extended to imprisonment for life, and shall also be liable for fine.
- (22) In this case, it is apparent that neither the alleged survivor nor her mother, the complainant has corroborated the written complaint in their evidence before this Court. The alleged survivor has not stated about the incident as narrated in the written complaint.
- (23) The independent witnesses also have not supported the case of the prosecution. They were declared hostile by the prosecution. The survivor was also declared hostile by the prosecution. But their cross-examination by the prosecution practically yielded nothing.
- (24) It has come to the surface that the complainant had a dispute with the father of the accused and for that reasons, she lodged the complaint. The survivor denied of giving any statement before the learned Magistrate. She also could not recollect whether she was medically examined or not. In such predicament, there is no evidence that the accused committed aggravated

penetrative sexual assault or any kind of assault upon the survivor.

**CONCLUSION:**

(25) Thus, on careful consideration of the evidence on record and other attending circumstances, I am of the view that the prosecution has miserably failed to prove the guilt of the accused beyond doubt, the accused therefore must be given benefit of doubt.

(26) Hence, it is

**ORDERED**

*that the accused namely, (A1) Rintu Kaibarta is found not guilty of the charge punishable under Section 6 of POCSO Act and he is hereby acquitted from this case under Section 235(1) of the CrPC.*

*Accused is permitted to remain on same bail bond till expiry of six months from the date of this order as provided under Section 437A of the Code of Criminal Procedure.*

*The seized alamats, if any, be disposed of in accordance with law after the period of appeal is over.*

*Regarding acquittal of accused, the victim has a right to prefer an appeal under proviso to Section 372 of the Code of Criminal Procedure and, if necessary, she may avail free legal aid.*

*Copy of judgment be forwarded to the Sub-Divisional Legal Services Authority at Chanchal and the District Magistrate, Malda.*

*Dictated & Corrected by me*

*(Joy Sankar Roy)  
Sd/-  
Judge, Special Court,  
Chanchal, Malda.*

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Sd/-  
Judge, Special Court,  
Chanchal, Malda.*