

Form A

IN THE COURT OF THE JUDGE SPECIAL COURT(POCSO ACT) BASIRHAT, NORTH 24 PARGANAS Present :- Sri Sutirtha Banerjee (WB00980) Judge(Special Court)POCSO Act Basirhat, North 24 Pgns [Date of the Judgement] 05/06/2026 Details of FIR/Crime and Police Station CNR-WBNP10-001794-2021 SPL(POCSO) 60/2021 (R. 60 of 2021) Ref: Hingalganj P.S. case No. 196, dated 29/11/2021 U/s- 448/325/354B/376/511/506/34 of IPC, section 12 of POCSO Act.	
Complainant	“X” the de-facto complainant cum mother of the V.G. STATE OF WEST BENGAL
REPRESENTED BY	Sri Ramen Ch. Bandapadhayay Special Public Prosecutor
ACCUSED	1. Ranjan Mondal (A1) s/o Gour Mondal 2. Pankaj Gharami (A2) s/o- Bhabaranjan Gharami 3. Tunin Mondal (A3) s/o- Dilip Mondal 4. Rahul Gharami s/o- Dasarath Gharami All of Vill. – Charalkhali, PS- Hingalganj, North 24 Parganas.
REPRESENTED BY	Sri Sukumar Gayen

Date of Offence	24/10/2021
Date of FIR	29/11/2021
Date of Charge sheet	30/03/2022 (Supplementary C.S. filed on 31/03/2023)
Date of Framing of Charges	13/11/2025
Date of commencement of Evidence	06/12/2025

Date on which Judgment is reserved	03/06/2026
Date of the Judgment	05/06/2026
Date of Sentencing Order, if any	N/A

Accused details:

Rank of the Accused	Name of the Accused	Date of arrest	Date of R/B	Offence/s charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during Trial for purpose of Section 428, Cr.P.C
A1	1. Ranjan Mondal (A1)	surrendered on 05/08/2022	11/08/2022	448/325/354B /506 of IPC and section 8 of POCSO Act	Acquitted	N/A	N/A
A2	2. Pankaj Gharami (A2)	surrendered on 05/08/2022	11/08/2022				
A3	3. Tunin Mondal (A3)	01/02/2022	31/05/2022				
A4	4. Rahul Gharami (A4)	surrendered on 05/08/2022	11/08/2022				

Form C

LIST OF PROSECUTION / DEFENCE/ COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE
PW 1	X	de-facto complainant cum mother of the V.G.
PW-2	Y	Father of the V.G.
P.W.-3	Z	V.G.
P.W.- 4	X1	Brother of the V.G.

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
DW 1	Nil	Nil

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
CW 1	Nil	Nil

LIST OF PROSECUTION / DEFENCE/ COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Ext. P1 (series)	Signatures of P.W. 1 on the application u/s- 156 (3) of Cr.P.C.
2	Ext. P2	Signature of the P.W. 1 on the seizure list dated 30/11/2021
3	Ext. P3	Birth Certificate of the V.G
4.	Ext. P4	Signature of the V.G. on the medico-legal examination report.
5.	Ext. P5	Relevant portion of the statement of the V.G. u/s- 164 of Cr.P.C.
6.	Ext. P5/1	Signature of the V.G. on the statement u/s- 164 of Cr.P.C.

B. Defence:

Sr. No.	Exhibit Number	Description
1	Nil	Nil

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
1	Nil	Nil

D. Material Objects:

Sr. No.	Material Object No.	Description
1	Nil	Nil

J U D G E M E N T

1. The instant case was started on the basis of an application under section 156(3) Cr.P.C., lodged by the de-facto complainant cum mother of the V.G., X [name not disclosed in view of restriction in this regard], of Village [details not mentioned to protect identity of V.G.] before the Ld. ACJM, Basirhat who duly forward the same to the O.C. Hingalganj P.S. on 29/11/2021 directing him to register the same as F.I.R.

2. On receiving the above complaint, the O.C. Hingalganj P.S. registered the same as Hingalganj P.S. case No. 196, dated 29/11/2021 U/s- 448/325/354B/376/511/506/34 of IPC, section 12 of POCSO Act.

3. The written complaint is to the effect that the on 24/10/2021 at the morning time defacto-complainant and her husband had gone out for work as usual. On the said day at about 8.30 p.m. (night) when they returned to their house they found that their minor daughter i.e. the V.G. of this case (aged 17 years) was in perturbed condition and she was weeping in the corner of their room. The wearing apparels of the V.G. were torn and the son the defacto-complainant (aged 15 years) was lying senseless in another room. Later on the defacto-complainant came to know from the V.G. that the accused persons entered to their house illegally at about 7.30 p.m. (evening) and tore the wearing apparels of the V.G. and touched the various parts of her body and they also physically assaulted her. The minor son of the defacto-complainant when came to rescue his sister was also assaulted and he became senseless and when the V.G. raised hue and cry then the accused persons also beat her indiscriminately. The de-facto complainant got the V.G. treated by a doctor. .

4. During the investigation the accused person namely, Tuhin Mondal was arrested on 01/02/2022 and on 31/05/2022 the accused Tuhin Mondal secured bail and after filing the C.S. accused persons namely, Ranjan Mondal, Pankaj Gharami and Rahul Gharami voluntarily surrendered on 05/08/2022 and they also secured bail on 11/08/2022.

5. The I.O. of the case has, after completion of the investigation submitted the charge sheet u/s 448/325/354B/376/506/34 of IPC and adding section 4 & 8 of POCSO Act and section 6 of POCSO Act on 30/03/2022 against the accused persons namely, Ranjan Mondal, Pankaj Gharami, Tunin Mondal and Rahul Gharami being Hingalganj P.S. case No. 196, dated 29/11/2021. Thereafter, on 31/03/2023 the I.O. had also filed the supplementary C.S.
6. Thereafter copies were supplied to accused persons as per the provision of Sec. 207, Cr.P.C.
7. Charge has been framed on 13/11/2025 under sections 448/325/354B/506/34 of IPC and section 8 POCSO Act against the accused persons and contents thereof was read over and explained to the accused persons in Bengali to which they pleaded not guilty and claimed to be tried in open Court.
8. Prosecution **adduced 4 witnesses** in support of its case including the V.G. and the de-facto complainant cum mother of the V.G. The Ld. Special Public Prosecutor submitted that prosecution evidence may be closed as no useful purpose would be served by summoning rest witnesses. It was held by Hon'ble Supreme Court of India in case titled **Satish Mehra vs. Delhi Administration & Anrs. reported as 1996 JCC 507**, that *"In cases where there is no prospect of the case ending in conviction, the valuable time of the court should not be wasted for holding a trial only for the purpose of formally completing the procedure to pronounce the conclusion on the future date"*. Considering the dictum of the Hon'ble Apex Court and submission of the Ld. Special Public Prosecutor in charge and trend of deposition of witnesses related to the de-facto complainant and victim, evidence was closed.
9. The accused persons further pleaded 'not guilty' when they were examined u/s. 313 Cr.P.C and declined to adduce any defence witness from their side.

10. The defence case, as it transpires from the trends of cross examination of the prosecution witnesses, is that of innocence and denial of the prosecution case.

Point for Decision

11. Whether the prosecution has been able to prove the case against the accused persons as alleged or not.

Decision with reasons

12. As mentioned earlier, in order to bring home the guilt of the accused person the prosecution was able to examine four witnesses in total.

13. P.W. 1 is the de-facto complainant cum mother of V.G. ; P.W. 2 is the father of the V.G.; P.W. 3 is the V.G. and P.W. 4 is the son of de-facto complainant cum brother of V.G.

14. P.W. 1 the de-facto complainant in her examination in chief proved her signatures on application under section 156(3) Cr.P.C. and stated that some years back there had been an altercation between them and accused over long pending property dispute for which she lodged a complaint. She also proved her signature on a seizure list and produced the birth certificate of the V.G. Her cross examination was declined.

15. P.W. 2 is the husband of the V.G. In his examination in chief he has, like the de-facto complainant, stated that his wife had lodged a complaint as some years back there had been an altercation between them and accused over long pending property dispute. His cross examination too was declined.

16. P.W. 3 the V.G. in her examination in chief stated that her mother the de-facto complainant had lodged the complaint against the accused who he identified in open Court. She further stated that one incident had occurred about 5 years back and she could only recollect that there was an altercation between her parents and the accused persons and a scuffle also and her brother had got hurt. She proved her signature on report of Medico legal examination and statement under section 164 Cr.P.C. In her cross examination she admitted that only an altercation and heated exchange of

words had taken place and she had stated in her statement under section 164 Cr.P.C. as per instruction of police.

17. P.W. 4 is the brother of the V.G. Like the de-facto complainant, her husband and V.G. he too stated in his examination in chief that there had been an altercation and heated exchange of words between his parents and accused some years back over a property dispute. His cross examination was declined.

18. It is the cardinal principle of criminal law that the prosecution has to prove the guilt of the accused beyond all reasonable doubt and until and unless guilt of the accused is proved, he will be presumed to be innocent. However, Section 29 of the POCSO Act is a departure from the general principle of criminal trial and puts the onus on the accused to rebut such presumption and establish his innocence. This provision creates a reverse burden on an accused to prove his innocence. The statutory presumption u/s 29 of the POCSO Act is against the accused, who has to prove his innocence after discharging the onus of proof by the prosecution. However Section 29 of the POCSO Act has no automatic application irrespective of the standard of evidence adduced in a particular case and without proof of foundational evidence the onus to prove the reverse burden of proof does not come into operation. Before taking recourse to section 29 of the Act so as to make the presumption applicable in the instant case, the prosecution has to lead evidence as to foundational fact of the prosecution case revealing the ingredients of the offence beyond reasonable doubt by leading cogent and reliable evidence. It is only on proof of foundational evidence the onus gets shifted to the accused to prove the contrary in order to discharge the reverse burden of proof as contemplated in section 29 of the POCSO Act. Here the fact that V.G. was a minor at the relevant time has indeed been proved by the prosecution by production of the birth certificate of V.G. However neither the de-facto complainant, her husband, the V.G. and the brother of the V.G. in their evidence did not mention

anything incriminating qua the accused persons qua any offence under the POCSO Act. V.G. also stated in her cross examination that she had stated in her cross examination as per instruction of the police. Statement under section 164 Cr.P.C. is not substantive evidence and in view of the evidence of the V.G. in Court, it can be safely stated that no offence under POCSO Act can be said to have been made out against the accused persons. The foundational fact as to alleged offence under section 8 POCSO Act is not proved so prosecution cannot get the benefit of section 29 POCSO Act per se and has to stand on its own legs and prove the alleged offences against the accused persons.

19. Here the de-facto complainant, her husband, the V.G. and son of the de-facto complainant (alleged injured) have only referred to an altercation between them and the accused persons over a property dispute. None referred to any act of assault/outrage of modesty. Despite them not supporting the prosecution case none was declared hostile by the prosecution. The Medico legal examination of the V.G. does not disclose anything amiss either. Alleged torn apparels of the V.G. and the de-facto complainant also not seized.

20. From the documents proved and the evidence of the witnesses recorded, I do not find an iota of evidence which proves or establishes the essential ingredients of the offences u/s 448/325/354B/506/34 I.P.C. and section 8 POCSO Act. Nothing has come in evidence to suggest that accused committed any act/s constituting offences punishable under sections 448/325/354B/506/34 I.P.C. and section 8 POCSO Act. Prosecution is no doubt under duty to prove guilt of the accused person beyond reasonable shadow of doubt. Since the prosecution has failed to discharge its said duty, I am compelled to reach at the ineluctable conclusion and irresistible inference that it has miserably failed to drive home the charges against the accused persons so as to establish their guilt. The

genuineness and veracity of the prosecution case is really under doubt for which the benefit should be given to the accused persons.

21. Considering the above, I have no hesitation to conclude that the prosecution has failed to bring home the charges u/s 448/325/354B/506/34 I.P.C. and section 8 POCSO Act and accused persons are hence liable to be acquitted of the charges and this case as per provision of law.

22. Hence, it is,

ORDERED

That the **accused persons A1 to A4** are found not guilty for commission of the offences punishable u/s. 448/325/354B/506/34 I.P.C. and section 8 POCSO Act and stand acquitted of said charges as per provision of Section 235(1) of the Code of Criminal Procedure.

The bail-bonds for the accused would remain in force for the next six (6) months in view of Sec. 437-A Cr.PC. whereupon the concerned sureties shall stand discharged in absence of any appeal being filed in the meantime.

The alamat of this case be destroyed on expiry of statutory period of appeal.

Zimmanama bond if any be made absolute in absence of any appeal being filed in statutory period.

Considering the evidence of the V.G. and de-facto complainant in Court, no need arises to send a copy of this judgement to the informant.

No case is made out for grant of compensation either as V.G. does not appear to have suffered any loss/injury.

Case stands disposed of. Note in relevant registers.

Dictated and corrected by me :

Judge(Special Court)POCSO Act
Basirhat, North 24 Parganas.

Judge(Special Court)POCSO Act
Basirhat, North 24 Parganas

Spl. (POCSO) 60 of 2021

Order no. 27 dated 03/05/2026

Today is fixed for examination of the accsued persons under section 313 of Cr.P.C.

The sole accused persons are present by filing hazira.

Ld. Special P.P. is present.

The accsued persons are examined under section 313 of Cr.P.C.

Thereafter, argument is heard.

Fix **05/06/2026** for judgement.

Dictated and corrected by me :

Judge(Special Court)POCSO Act
Basirhat, North 24 Pgns

Judge(Special Court)POCSO Act
Basirhat, North 24 Parganas

28 / 05.06.2026

Accused persons are present by filing hazira.

Both the Ld. Lawyer for the accused and the Ld. Spl. P.P. are present.

Today is fixed for passing judgement.

Judgement is ready and prepared in separate sheets and pronounced in open Court.

It is, **ORDERED**

That the **accused persons A1 to A4** are found not guilty for commission of the offences punishable u/s. 448/325/354B/506/34 I.P.C. and section 8 POCSO Act and stand acquitted of said charges as per provision of Section 235(1) of the Code of Criminal Procedure.

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