

S.C (SPL) CASE No.12 of 2020
(ST No.135 of 2025)

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Form A

IN THE COURT OF :

ADDITIONAL DISTRICT & SESSIONS JUDGE CUM SPECIAL JUDGE,
PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2ND
COURT, PURULIA.

PRESENT :

Shri Rana Dam

Additional Sessions Judge cum Special Judge under Protection of
Children from Sexual Offences Act. 2nd Court, Purulia.

[Date of Judgment :- 15.07.2026]

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CNR No-

Barabazar P.S case No.87, dt.16.10.2018, U/s.363/365 IPC

Complainant : STATE OF WEST BENGAL

REPRESENTED BY PUBLIC PROSECUTOR : Smt S.Ghosal, Ld. Spl. P.P.

Accused (A1) :

Jalal Ansary
S/o. Basir Ansary,
Vill : Bhabanipur,
P.S. : Barabazar,
District : Purulia.

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REPRESENTED BY : Mr. B.Kumar, Ld. Advocate.

FORM B

Date of offence	11.10.2018
Date of FIR	16.10.2018
Date of Charge sheet	30.4.2020
Date of Framing Charges	3..4.2025
Date of commencement of Evidence	2.9.2025
Date on which Judgment is reserved	15.07.2026
Date of the Judgment	15.07.2026
Date of the Sentencing Order, if any	xx

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 Trial for purpose of Section 428,Cr.P.C
(A1)	Jalal Ansary	12.4.20	22.12.22	Us.363/365 IPC and U/s.6 POCSO Act.	Acquitted	xx	12.4.20 to 22.12.22

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Form C

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS,POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS,OTHER WITNESS
P.W1	Father of the child survivor	Defacto complainant
P.W2	Co-villager	Independent witness
P.W3	Scribe of the FIR	Independent witness
P.W4	Child survivor	Eyewitness
P.W5	Mother of the child survivor	Dependent witness
P.W6	S.I, Subhas Malik	Police witness

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS,POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS,OTHER WITNESS
DW		
DW		

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS,POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS,OTHER WITNESS
CW		
CW		

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LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1.	Exhibit-P-1/PW1	Signature of PW1 on the written complaint
2.	Exhibit-P-1(1)/PW3	Written complaint
3.	Exhibit-P-2/PW4 to Exbt.P-2(2)/PW4	Signatures of PW4 on the recorded statement U/s.164 Cr.P.C
4.	Exhibit-P-3/PW4	Signature of PW4 on the consent form
5.	Exhibit-P-4/PW4	Signature of PW4 on the medical report

B. Defence :

Sr. No.	Exhibit Number	Description
1.		
2.		

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C. Court Exhibits :

Sr. No.	Exhibit Number	Description
1.		
2.		

D. Court Exhibits :

Sr. No.	Material Object Number	Description
1.		
2.		

J U D G M E N T

Brief facts of the case is that Barabazar PS Case No.87, dt.16.10.2018, U/s.363/365 IPC was started on the basis of written complaint of the defacto complainant against the accused A1 to the effect that on 11.10.2018 accused person kidnapped the minor daughter of the complainant and confined to an unknown place with some ulterior motive.

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Over such written complaint Barabazar PS Case No.87, dt.16.10.2018, U/s.363/365 IPC was registered and SI Subhas Malik was entrusted with investigation which ended in charge sheet being No.41, dt.30.4.2020, against the sole accused A1 for offence U/s.363/365 IPC r/w S.4 POCSO Act.

Cognizance was taken and after compliance of S.207 Cr.P.C, having regard to the prima facie case available on record, charge for the offence U/s.363/365 IPC and U/s.6 POCSO Act was framed against the sole accused A1 and the substance of accusation were stated to the accused to which he pleaded not guilty and claimed to be tried.

In this case prosecution examined 06 witnesses to prove the case.

PW1 being father of the child survivor and defacto complainant of this case has stated that he lodged one complaint about 5 years ago at Barabazar PS against Jamal Ansary since his daughter was found missing. Witness further stated that at present his

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daughter is living with Jamal Ansary at her matrimonial home and they have children and his daughter is happy with her husband Jamal Ansary.

PW2 being co-village of the child survivor has stated that defacto complainant lodged one complaint about 5 years ago at Barabazar PS against Jamal Ansary since his daughter was found missing. Witness further stated that at present said daughter child survivor is living at her matrimonial home with Jamal Ansary and they have one child.

PW3 being scribe of the written complaint has stated that defacto complainant lodged one complaint about 5 years ago at Barabazar PS against Jamal Ansary and the complaint was written by him and thereafter defacto complainant signed on the same and he also signed on the same as scribe.

PW4 being the child survivor of this case has stated that her father lodged the complaint since she eloped with the accused A1 and her father fixed her marriage elsewhere which she did not accept and she

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called the accused and asked him to take her to his house. Witness further stated that she put him under threat to commit suicide and thereafter she married the accused A1 and all her in-laws accepted their marriage. It was lock down period due to COVID 19 insurgence and subsequently we surrendered at Barabazar PS. During cross examination she stated that though she stated before Ld. Magistrate that she lived with the accused A1 as husband and wife when they fled away and stayed at Jamshedpur and also at Bardhaman, but in fact there was no occasion of any cohabitation and since she started living with the accused, she is happy and they have one child born of our wedlock and she wishes to live with her family.

PW5 being mother of the child survivor has stated that her husband lodged one complaint against Jalal Ansary since their daughter was found missing and subsequently she was recovered during lock down period.

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PW6 being S.I, Subhas Malik, SI of police, now posted at Kenda PS stated that on 16.10.2018 he was posted at Barabazar PS and on that date Barabazar PS Case No.87, dt.16.10.2018 was entrusted to him for investigation and accordingly, he took up the investigation and subsequently due to his transfer he made over charge and SI Bidyapati Kar took up investigation and thereafter SI Laxmikanta Pati concluded investigation and submitted charge sheet against sole accused Jalal Ansary for offence U/s.4 POCSO Act r/w S.363/365 IPC.

After completion of the examination of the prosecution witnesses, the sole accused A1 was duly examined U/s.313 Cr.P.C by putting specific and separate questions on to him being found incriminating out of the oral testimonies of the prosecution witnesses, to which he pleaded innocence and however declined to examine any defence witness.

Case was closed. Heard argument.

The Ld. Spl. P.P has submitted that PW1 being

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father of the child survivor and defacto complainant of this case has stated that he lodged one complaint about 5 years ago at Barabazar PS against Jamal Ansary since his daughter was found missing. Witness further stated that at present his daughter is living with Jamal Ansary at her matrimonial home and they have children and his daughter is happy with her husband Jamal Ansary. PW2 being co-village of the child survivor has stated that defacto complainant lodged one complaint about 5 years ago at Barabazar PS against Jamal Ansary since his daughter was found missing. Witness further stated that at present said daughter child survivor is living at her matrimonial home with Jamal Ansary and they have one child. PW3 being scribe of the written complaint has stated that defacto complainant lodged one complaint about 5 years ago at Barabazar PS against Jamal Ansary and the complaint was written by him and thereafter defacto complainant signed on the same and he also signed on the same as scribe. PW4 being the child survivor of this case has stated that her father lodged the complaint since she

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eloped with the accused A1 and her father fixed her marriage elsewhere which she did not accept and she called the accused and asked him to take her to his house. Witness further stated that she put him under threat to commit suicide and thereafter she married the accused A1 and all her in-laws accepted their marriage. It was lock down period due to COVID 19 insurgence and subsequently we surrendered at Barabazar PS. During cross examination she stated that though she stated before Ld. Magistrate that she lived with the accused A1 as husband and wife when they fled away and stayed at Jamshedpur and also at Bardhaman, but in fact there was no occasion of any cohabitation and since she started living with the accused, she is happy and they have one child born of our wedlock and she wishes to live with her family. PW5 being mother of the child survivor has stated that her husband lodged one complaint against Jalal Ansary since their daughter was found missing and subsequently she was recovered during lock down period. PW6 being S.I, Subhas Malik, SI of police, now posted at Kenda PS stated that on

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The Ld. Senior Defence Counsel has submitted that brief facts of the case is that Barabazar PS Case No.87, dt.16.10.2018, U/s.363/365 IPC was started on

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the basis of written complaint of the defacto complainant against the accused A1 to the effect that on 11.10.2018 accused person kidnapped the minor daughter of the complainant and confined to an unknown place with some ulterior motive but the instant case suffers in every way, be it factual or be it legal. According to the defence, the accused has been falsely implicated in this case and there was no such incident ever took place as claimed by the prosecution and in fact, the accused person never committed any mischief and the prosecution has failed to come up with sufficient evidence to establish the allegations made in the FIR and thus the defence has prayed for acquittal of the accused person from this case.

There is no evidence that the accused A1 was ever responsible for the elopement of the child survivor or that the accused committed any offence in respect of the minor child survivor. It further appears from the evidence that the child survivor and the accused person are happily married couple and considering the fact that the accused has been keeping the child

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survivor properly and maintaining her in healthy manner, there cannot be any iota of offence even if the accused had married the child survivor when she did not attain the age of marriage.

The age of the victim has not been proved. It cannot be ascertained whether the child survivor was minor at the time of the incident or not, though it has been claimed by the prosecution witnesses that the victim was minor at the time of the incident but there has been no such evidence in support of the age of the victim. Therefore, question of attracting the provisions of POCSO Act remains doubtful.

There is no evidence that the accused A1 was ever responsible for the elopement of the child survivor or that the accused committed any offence in respect of the minor child survivor.

In this case the prosecution has not examined the Medical Officer, who attended the child survivor during investigation of this case and thus the defence could not get any chance to cross examine the vital witness or it is in dark that the child survivor ever been

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sexually assaulted or the accused A1 had ever committed any offence under POCSO Act against the child survivor.

That being the state of evidence, it appears that the allegations have not been proved in any way whatsoever. The prosecution case is that the accused A1 kidnapped the minor child survivor and also compelled to have physical relation with the accused A1. However, the evidence of prosecution witnesses do not transpire any aspect of the contents of the written complaint.

In this case prosecution has claimed that as per version of the the child survivor and the complainant, the child survivor and the accused lived as husband and wife but no evidence is forthcoming to rely the fact that actually being a minor any offence has been committed by the accused A1.

Though law is well settled that an order of conviction can be recorded against the accused even on the sole testimony of the child survivor or the confidence of the Court, if that evidence of the sterling

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witness could be found trustworthy and free from being doubt. However, in the present context, the court finds that there has been clear contradictions in the evidence provided by the child survivor and others from that being the subject matter of the written complaint.

The case sans merit when the child survivor herself asserted in cross examination that though she lived with the accused A1 for some time at Jamshedpur and later at Bardhaman, there was no occasion any cohabitation between them. Therefore, the prosecution miserably failed to prove that there was any offence committed under POCSO Act as claimed in the written complaint or even in the charge sheet.

Under the Provisions of the POCSO Act, there is a presumption of culpable mental state of the accused and the burden is upon the accused to prove that he is innocent.

S.29 of the POCSO Act deals with the presumption as to certain offence and S.30 of said Act deals with the presumption of culpable mental state which run as follows :

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“29. Presumption as to certain offence.- Where a person is prosecuted for committing or abetting or attempting to commit any offence under sections, 3,5,7 and section 9 of this Act, the Special Court shall presume that such person has committed or abetted or attempted to commit the offence, as the case may be, unless the contrary is proved.”

“30. Presumption of culpable mental state. - (1) In any prosecution for any offence under this Act, which requires a culpable mental state on the part of the accused, the Special Court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the Act charged as an offence in that prosecution. (2) For the purposes of this section as fact is said to be proved only when the Special Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

Explanation.- In this section, “culpable mental state” includes intention, motive, knowledge of a fact

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and the belief in, or reason to believe, a fact”.

In the instant case, the evidence of the prosecution witnesses and the materials available before this court, is sufficient to create doubt in the mind of the court to believe that the accused committed the alleged offence or that the accused had culpable state of mind at the relevant time and the prosecution has failed to prove beyond reasonable doubt regarding existence of any culpable state of mind of the accused at the relevant point of time and the presumptions U/s.29 and U/s.30 of the POCSO act will not help the prosecution in any manner.

After considering the entire evidence on record as discussed above, it is clear to this court that the prosecution has failed to establish the charge U/s. 363/365 and U/s.6 POCSO Act against the present accused person and said accused person is liable to be acquitted from this case.

Considering all, this court is not inclined to record an order of conviction against the accused A1. As a result the prosecution case fails miserably.

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Hence, it is-

ORDERED

that the accused person A1 is hereby found not guilty in the present case and be acquitted as per S.235(1) Cr.P.C. The bail bond of the accused person be continued for next 06 months as per provision of S.437A Cr. P.C.

Alamats, if any, be preserved till appeal period.

Note in the relevant registers.

The fate of this case be informed to the defacto complainant of this case at once.

Declared and pronounced
in open ejlash by me.

(RANA DAM)

ADDITIONAL SESSIONS JUDGE,
2nd COURT, PURULIA
CUM

Judge, Protection of Children from
Sexual Offences Act, Purulia.

(J.O Code—WB00729)