

IN THE 2nd COURT OF THE ADDITIONAL SESSIONS JUDGE, ALIPORE

Special ST -13(12)22

Special Case No.84/22

CNR -WBSP01-004941-2019

Present :Manas Ranjan Sanyal (JO Code - WB00666)

Judge, Special Court & 2nd A.S.J.,

Alipore, South 24-Parganas.

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08.12.2022

Accused Md. Shamim Khan @ Sonu is produced from J.C through V.C.S.

Today is fixed for hearing on the point of charge.

Petition is taken up for hearing.

Learned advocate for accused submits that there is no injury in the private part of the victim girl appears in the medical report. During her statement before learned Magistrate the victim girl stated that the accused touched her private part. So, section 376(2)(i) I.P.C or section 6 of POCSO Act, will not be attracted and at best section 354 of I.P.C and section 8 of POCSO Act may be attracted. So, the charge should be framed under those sections only.

Heard learned Special P.P who submitted that the age of the victim girl is only 09 year and there is direct allegation of touching private parts. So both sections 376AB of I.P.C and section 6 of POCSO act is clearly attracted.

Perused the CD and other materials on record especially the statement of the victim girl recorded u/s 164 of Cr.P.C.

I find that the victim stated that when she went to toilet the accused went there and touched her private parts and the victim girl pointed her private part before learned Magistrate. The age of the victim is only 09 years. So, it is quite natural that there may not be any sign of injury in her private parts. So no injury was found during her medical examination but mere touching of private part of 09 years old girl clearly constitutes the offence u/s 376AB of I.P.C and section 6 of POCSO Act, 2012. It further appears that there is allegation of threatening by the accused person. So section 506 (II) of IPC is also attracted. So, prima facie I find that the prosecution has established the prima facie case u/s 376 AB / 506(II) of I.P.C and section 6 of POCSO Act, 2012 against the accused and the charge should be framed accordingly.

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In view of above of above discussion the petition filed on 01.11.2022 on behalf of the accused is disposed of.

Now the case record is taken up for consideration of charge.

Learned Special P.P-in-charge opens the case by describing the charges to be framed against the accused person.

Perused the materials on record and C.D.

On perusal of the same, I find sufficient materials against the accused person namely Md. Shamim Khan @ Sonu under section 376AB/506(II) of I.P.C and Sec 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

Charge is framed accordingly against the accused person namely Md. Shamim Khan @ Sonu under section 376AB/506(II) of I.P.C and Sec 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 on separate sheet of paper and the same is kept with the case record.

The contents of the charges is read over and explained to the accused person in Bengali to which he pleaded not guilty and claimed to be tried.

The identities of the victim girl is required to be kept confidential as per provisions of **Sec 33 (07) of POCSO Act, 2012** as well as **under the direction of the Hon'ble Supreme Court in Nipun Saxena Vs Union of India** and **the direction of the Hon'ble High Court, Calcutta in Bijoy @ Guddu Das Vs The State of West Bengal** and also in **Prabir Bhuian Alias Prabir Bhuinyan Vs The State of West Bengal**. So to prevent the disclosure of the identification of the said victim girl, her name and address are not mentioned in the above said charge form.

To 28.02.2023 for production of accused and evidence of the VG.

I.O is directed to bring the victim girl on the date fixed positively.

D/C by me
Sd/-Manas Ranjan Sanyal
A.S.J 2nd Court, Alipore
South 24 Pgs

Sd/-Manas Ranjan Sanyal
Addl. Session Judge
2nd Court Alipore
South 24 Pgs