

IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE, SECOND
COURT, AND
JUDGE SPECIAL COURT, (P.O.C.S.O, ACT) AT RAIGANJ
DISTRICT: UTTAR DINAJPUR

Present: Ms Varsha Bansal Agarwal
Addl. Sessions Judge, 2nd Court,
&
Judge (P.O.C.S.O Court), at Raiganj
JO Code – WB01307

Judgment is delivered on 30th day of July, 2026.

POCSO Case No. 25 of 2023
S.T. No. 05(12)/2023
CNR No. WBUD01-001759-2023

STATE

: V e r s u s :

1. Abutallah @ Mahammad,
 2. Ruhul Amin @ Mintu.
-Accused persons

Charge: u/s 363/365/34 of IPC and Sec. 6 of P.O.C.S.O. Act.

Ld. Spl P.P for the State - Mr. Prosenjit Roy
Ld. Advocate for the defence - Mr. Bappa Sarker

J U D G M E N T

At the outset, it needs to be mentioned that the instant case is under the Protection of Children from Sexual Offences Act, 2012 which mandates that the Special Court shall ensure that identity of the child is not disclosed at any time during the course of investigation or trial. Keeping in view the mandate of POCSO Act and the guidelines delineated by the Hon'ble Apex Court, the name and identity of the victim is withheld.

1. Verset :-

The de-facto complainant lodged a complaint before the O/C, Bhatol Police Out Post, under PS Raiganj by stating that on

13.05.2023 at about 02:00 PM, the minor daughter of de facto complainant, aged about 17 years, got missing from her home. Complainant searched her but did not find her. On 14.05.2020 at about 03:00 PM he received call from the number of his daughter being 8609225015 and was informed that she was in Pakur. Thus the complaint.

2. Investigation :-

On the basis of the above complaint, the instant case being Raiganj PS case No.524/23, dt. 15.05.2023, u/s 363 of IPC had been initiated against unknown accused person. The case was endorsed to SI Niranjan Kumar Paul for investigation and he took up the charge of investigation. After completion of investigation I.O. submitted Charge-Sheet against the above named accused persons vide CS no. 738/23 dt. 22.08.2023 u/s 363/365/109/32 of IPC r/w Sec. 6 of P.O.C.S.O. Act against accused Md. Abutullah and Mintu @ Ruhul Amin.

3. Commitment :-

Copy of this case was served to the accused persons in term of Sec. 207 of CrPC. As this Court is Special Court deals with POCSO cases as such, case is taken for trial and disposal.

4. Framing of Charge :-

On the basis of materials available on record, charge was framed on 14.12.2023 against the accused namely Abutallah @ Mahammad u/Sec. 6 of P.O.C.S.O. Act and against the accused namely Abutallah @ Mahammad and Ruhul Amin @ Mintu u/s 363/365/34 of IPC. The charge was read over and explained to the said accused persons, to which they pleaded “not guilty” and claimed to be tried.

5. Points for Ruminati3n :-

- 1) Whether the victim girl was below the age of 18 years on the date of incident to attract the provisions of the Protection of Children from Sexual Offences (P.O.C.S.O.) Act, 2012 ?
- 2) Whether prosecution has been able to prove charge against the accused persons beyond reasonable doubt ?

6. Evidence Adduced :-

In the course of trial, Prosecution examined 06 witnesses who are as follows :-

- 1) PW1- Victim,
- 2) PW2- Father of the victim girl, Complainant,
- 3) PW3- Aunt of the victim girl,
- 4) PW4- Uncle of the victim girl,
- 5) PW5- Inspector Niranjan Kumar Paul, IO,
- 6) PW6- Noor Islam, Scribe.

Prosecution has also produced some documents which were marked as follows :-

Exhibit Number	Nature of documents.
Exbt:P1/PW1	Sign of Victim on consent form
Exbt:P1/1/PW5	Consent form
Exbt:P2/PW1	Sign of Victim on medical examination report
Exbt:P2/1/PW5	Medical Examination report of VG
Exbt:P3/PW1	Sign of Victim on statement u/S 164 of CrPC
Exbt:P3/1/PW1	Statement of VG u/S 164 of CrPC
Exbt:P4/PW1	Sign of Victim on statement u/S 164 of CrPC
Exbt:P5/PW5	Endorsement of RO on the written complaint
Exbt:P5/1/PW6	Written complaint
Exbt:P5/2/PW6	Signature of Scribe on written complaint
Exbt:P6/PW5	Formal FIR
Exbt:P6/1/PW5	Signature of RO on the formal FIR

Exbt:P7/PW5	Rough sketch map with index
Exbt:P7/1/PW5	Signature of PW5 on rough sketch map
Exbt:P8/PW5	Seizure list dt. 16.05.2026
Exbt:P8/1/PW5	Signature of PW5 on the seizure list
Exbt:P9/PW5	Zimmanama
Exbt:P10/PW5	Medical examination report of accused

7. Decision with reasons:-

After appraisal of the testimony of prosecution witnesses, I find that the prosecution witnesses have adduced their evidence as follows:-

P.W. 01 Victim has stated in her examination in chief that her father lodged complaint for the incident took place one year ago while she was 17 years. She knew a boy but cannot say his name. She told her father about that boy. Her father abused her and for anger, she left her house and went to the house of her parental aunt. Her father got her on the bridge of river Nagar. She put her LTI on recovery memo. Police arranged her medical examination at RGMCH and she put her signature in the consent for and her medical examination report which she proved as Exhibit:P1 & P2 respectively. She made her statement u/s 164 of CrPC before the Ld. Magistrate and put her signature on the said statement which she proved as Exhibit:P3 & P4.

In her cross-examination, she stated that she made her statement before the Ld. Magistrate being tutored by the police. She left her house without informing anybody as she was abused by her father.

P.W. 02 Father of victim has stated in his examination in chief that he lodged complaint about 1 year ago for missing of his daughter, aged about 17 years. He cannot say what is written in the complaint letter but he put his LTI on it. He got his daughter on the bridge of Nagar river. He produced the birth certificate of his

daughter to police who seized the same under seizure list and returned under zimmanama. Police took away his daughter to hospital for her medical examination and he put his LTI on consent form and medical examination report. His daughter was produced before the Court and she made her statement before the Ld. Magistrate.

In his cross-examination, he stated that he cannot say why police arrested the accused persons.

P.W. 03 Aunt of victim has stated in her examination in chief that complainant is her elder-brother-in-law. He lodged complaint against accused Abu Tala @ Md and Ruhul Amin @ Mintu. She identified them before the Court. She has further stated that the incident took place in the year 2023 at noon. She heard that both the accused persons took away the minor daughter of the complainant. For such reason, complaint was lodged. After passing of some days, victim returned to her house. Police interrogated her.

In her cross-examination, she stated that she cannot say the name of the person who told her about the incident.

P.W. 04 Uncle of victim has stated in his examination in chief that complainant is his younger-brother who lodged complaint against accused Abu Tala @ Md and Ruhul Amin @ Mintu. he identified them before the Court. He has further stated that the incident took place in the year 2023 at noon. He heard that both the accused persons took away the minor daughter of the complainant. For such reason, complaint was lodged. After passing of some days, victim returned to her house. Police interrogated him.

In his cross-examination, he stated that she cannot say the name of the person who told him about the incident.

P.W. 05 Inspector Niranjana Kumar Paul has stated in his examination in chief that on 15.05.2023, he was posted at Raiganj

PS as S.I of Police. On that day, LSI Saswati Karmokar was the Recording Officer of Raiganj PS. He knows her handwriting and signature having been worked with her. On that day, she received complaint from complainant after putting her signature and endorsement on the written complaint. Then, she filled up the formal FIR on the basis of written complaint being Raiganj PS Case No. 524/23 dt. 15.05.2023 u/S 363 of IPC against unknown miscreants. Thereafter, charge of investigation was handed over to him. After taking up the investigation, he perused the FIR and examined the complainant of this case. He found his statement corroborated with FIR. Then, he visited PO and prepared rough sketch map with separate index in his own handwriting. Then, he examined the available witnesses and recorded their statement u/S 161 of CrPC. He seized Birth Certificate of victim produced by her father and prepared the seizure list. Then, he took the signature of witnesses in the seizure list. Thereafter, he returned the original birth certificate to the producer under Zimmanama. Thereafter, he collected the CDR and got the source information about the existence of VG. Then, he recovered VG from Nagor Bridge along with the accused. Thereafter, he arrested the accused from that place. He examined the victim and recorded her statement u/s 161 of CrPC. He forwarded the accused before the Ld. Court. He sent the victim before the Ld. Court for recording of her statement u/S 164 of CrPC. After recording of her statement, he collected the copy of the same. Then, he sent the victim to RGMCH for her medical examination and collected her medical examination report. Then, he made prayer for adding Section 6 of POCSO Act which was allowed by the Ld. Court. Thereafter, he produced the accused Md. Abutullah to RGMCH for his medical examination and after his medical examination, he collected his medical examination report. After the medical examination of victim, he collected the sealed kham containing vaginal swab and smear of victim which he sent to RFSL for chemical examination. During investigation, it has also

revealed that the friend of accused also helped him in taking away the victim. For such reason, he conducted raid but failed to arrest him. After completion of investigation and permission with the superior authority, he submitted CS vide CS No.738/2023 dt. 22.08.2023 u/S 363/365/109/32 of IPC and Section 6 of POCSO Act against accused Md. Abutullah and Mintu @ Ruhul Amin. He proved the endorsement with signature of RO in written complaint Exhibit:P5/PW5, Formal FIR Exhibit:P6/PW5, the signature of RO in formal FIR Exhibit:P6/1/PW5, Rough sketch map with separate index Exhibit:P7/PW5, his signature in rough sketch map with separate index Exhibit:P7/1/PW5, Seizure list dated 16.05.2023 Exhibit:P8/PW5, his signature in the seizure list Exhibit:P8/1/PW5, Zimmanama Exhibit:P9/PW5, Statement of victim u/S 164 of CrPC Exhibit:P3/1/PW5, Consent form Exhibit:P1/1/PW5, Medical examination report of victim Exhibit:P2/1/PW5 and Medical examination report with consent form of accused Exhibit:P10/PW5.

He identified the accused Md. Abutullah before the Court.

In his cross-examination, he denied that he did not investigate the case properly and the investigation is perfunctory.

P.W. 06 Noor Islam has stated in his examination in chief that on 14.05.2020 he wrote complaint as per the instruction of complainant. Thereafter, he read over the contents of complaint to him who after understanding the same, put his LTI on the written complaint. He also put his signature in the written complaint. He proved written complaint as Exhibit:P5/1/PW6 and his signature in the written complaint Exhibit:P5/2/PW6.

In his cross-examination, he stated that he has no personal knowledge about the fact of the incident.

8. Examination of Accused :-

After completion of the testimonies of prosecution witnesses, on 28.07.2026, the accused persons were examined u/s 313 of Cr.PC

wherein they stated that they are innocent and they declined to adduce any defence witness.

9. Argument :-

Ld. Spl P.P. has submitted that PW2 defacto complainant has adduced his testimony by corroborating the FIR Exbt.1 to some extent apart from their other family members. As such, necessary order be passed.

Per contra- Ld. Defence counsel has submitted that neither VG nor her father PW-2 defacto complainant have supported the prosecution case apart from the other witnesses. In the circumstances, the accused persons should be acquitted from the instant case.

10. Analysis of the evidences on record :-

In order to appreciate the contentions of both sides, I have made close scrutiny of the oral as well as documentary evidences in the light of arguments advanced at length by Ld. Special P.P. and Ld. Defence Counsel and has also taken into consideration the relevant provisions of law.

In order to prove the charge for offence under POCSO Act, prosecution has to prove that the victim was a “child” below 18 years of age on the relevant date of incident. In the case in hand, as per FIR, the victim was aged about 17 years on the alleged date of incident. In course of trial, prosecution did not produce the birth certificate of VG nor any other documents. though defence also did not raise any question in this regard but considering the age of the VG, it can be inferred that age of the VG is not proved from the side of the prosecution.

On minutes scrutiny of the record, I find that the allegations made by defacto complainant in FIR are serious in nature which is

causing sexual assault on complainant and VG.

PW2 / defacto complainant who is the father of VG, though lodged complaint against the accused persons for kidnapping on VG by unknown person but later IO submitted CS against the accused for kidnapping and of sexual assault on victim but in his oral evidence he did not make such allegation. Not only that he specifically stated in his oral evidence that he cannot say why police arrested the accused persons. From his testimony, it is evident that there is no allegation of kidnapping and sexual assault on VG. This witness failed to corroborate his testimony with FIR. As such, his deposition can not be considered as reliable.

PW-3 and PW-4 are the aunt and uncle of VG who have categorically stated that victim was missing and they heard that the accused took away minor victim. For such reason complainant lodged complaint but they also stated that they have no personal knowledge about the incident. Therefore, this witness also avoided to support the prosecution case.

This is a case under POCSO Act. It is settled position of law that conviction can be based upon sole evidence of prosecutrix if her evidence is found to be reliable and trustworthy.

Victim has appeared as PW-1 and has stated that at that she knew a boy but cannot say his name. She told her father about that boy. Her father abused her and for anger, she left her house and went to the house of her parental aunt. Her father got her on the bridge of river Nagar. Not only that, in her cross-examination, she admitted that she left her house without informing anybody as she was abused by her father. Therefore, it evident from her testimony that there is no allegation kidnapping and causing sexual assault caused by the accused. Her such statement is neither transpired in the FIR nor in her statement u/s 164 CrPC which is proved before this court.

PW-1 appear to have made a statement before Ld Magistrate

u/s 164 CrPC but statement u/s 164 CrPC is not the substantive piece of evidence. The statement on oath of the victim before the court does not corroborate her statement u/s 164 CrPC. She admitted that she made her statement before the Ld Judicial Magistrate as per the instruction of police.

Therefore, it reveals that the oral evidence of P.W1, P.W2, PW3 and PW4 do not corroborate with the occurrence as well as the place of occurrence as alleged by PW-2 in the complaint and their oral evidence on oath before the Court. They failed to support the prosecution case with respect to the kidnapping of VG and the sexual assault on her. On the contrary, these witnesses have stated that accused did not commit any sexual assault on VG.

PW-6 Noor Islam is a scribe who proved the FIR but stated that he has no knowledge about any incident.

PW-5 Inspector Niranjana Kumar Paul, the IO of this case has been testified with regard to the investigation and proved certain documents but in absence of proving of the allegations in the ocular evidence of VG, complainant and her relative, the testimony of this witness is of no help to the prosecution to secure the conviction of the accused persons.

Therefore, on careful scrutiny of the evidences, this court finds that there are glaring inconsistencies and contradictions in the statement of victim as well as complainant. Medical evidence has not come to the aid of the prosecution. The victim as well as her mother and other witnesses have been cross-examined by defence with regard to contradiction vis-a-vis their statement u/s 164 Cr.P.C. The victim as well as informant and other witnesses are found to have made vital statements before the I.O which they have not made in their evidences before the court. Thus, having made close scrutiny of the prosecution evidence on record, this court finds that prosecution has failed to prove the case against the accused by

proper and convincing evidence.

11. Conclusion :-

Thus, having considered entire evidences, materials and circumstances on record and in view of above discussion, I am to hold that prosecution has failed to prove the charge against the accused person. There is no evidence on record to saddle the accused person namely Abutallah @ Mahammad with the charge for offence u/s 6 of P.O.C.S.O. Act, 2012 and against accused persons namely Abutallah @ Mahammad and Ruhul Amin @ Mintu for offence u/s 363/365/34 of IPC. As such, the accused persons are entitled to get an order of acquittal on the benefit of doubt in this case.

The points for determination are answered accordingly.

Hence, it is

O R D E R E D

that the accused person namely Abutallah @ Mahammad is found not guilty of the offence u/s Section 6 of POCSO Act, 2012 and accused persons namely Abutallah @ Mahammad and Ruhul Amin @ Mintu are found not guilty of the offence u/s 363/365/34 of IPC.

Accordingly, the accused persons above named are acquitted from the case u/s 235(1) of the Cr.P.C.

The accused persons shall be released if not wanted in any other case by executing a bond amounting of Rs.100/- each with one surety of like amount each to the satisfaction of Ld. C.J.M, Uttar Dinajpur u/s 437A of CrPC with direction to appear before the Higher Court as and when such court issues notice in respect of any appeal or petition. The bail bond shall remain in force six months in terms of Sec. 437A of CrPC.

In terms of the directions of the Hon'ble Calcutta High Court in Judgement dated 29.03.2022 passed in CRA No. 266 of 2020, wherein it is held that victim has right to appeal against this

Judgement, let a copy of this order be forwarded to the Ld. District Magistrate through Ld. Secretary DLSA, Uttar Dinajpur for due intimation to the victim as defined u/s. 2(wa) of Cr.P.C. to inform the right of victim to prefer an appeal in terms of proviso to Section 372 of Cr.P.C. and if necessary, to avail free legal assistance from Legal Service Authority concerned to prefer and prosecute such appeal.

Let the seized alamats/documents/materials, if any, be disposed of/ return to the authorized person of the owner/concerned authority in accordance with law after expiry of the statutory period of appeal.

Let a copy of this order be sent to Ld. C.J.M, Uttar Dinajpur for information and necessary action.

Let a copy of this order along with copy of judgement be sent to Ld. Secretary DLSA, Uttar Dinajpur for information and necessary action.

(Dictated & Corrected)

Sd/-

A.S.J.

Sd/-

Additional Sessions Judge,
2nd Court -cum- Judge, Spl. Court
under P.O.C.S.O. Act, Raiganj,
Uttar Dinajpur

POCSO Case No. 25 of 2023
CNR No. WBUD01-001759-2023
J.O. Code No.WB01307

Order No. 16, dt. 30.07.2026.

The accused persons namely Abutallah @ Mahammad and Ruhul Amin @ Mintu on CB are present by filing hazira.

Today is fixed for argument and delivery of judgment.

Ld. Spl P.P. and Ld. Advocate for the accused are present.

Argument heard in full.

The Judgment is ready by now and pronounced in open Court in presence of both the sides and the same is also sealed and signed.

The computer typed Judgment contained in separate sheets be kept with the record.

The operative part of the Judgment is as follows:-

Hence,

ORDERED

that the accused person namely Abutallah @ Mahammad is found not guilty of the offence u/s Section 6 of POCSO Act, 2012 and accused persons namely Abutallah @ Mahammad and Ruhul Amin @ Mintu are found not guilty of the offence u/s 363/365/34 of IPC.

Accordingly, the accused persons above named are acquitted from the case u/s 235(1) of the Cr.P.C.

The accused persons shall be released if not wanted in any other case by executing a bond amounting of Rs.100/- each with one surety of like amount each to the satisfaction of Ld. C.J.M, Uttar Dinajpur u/s 437A of CrPC with direction to appear before the Higher Court as and when such court issues notice in respect of any appeal or petition. The bail bond shall remain in force six months in terms of Sec. 437A of CrPC.

In terms of the directions of the Hon'ble Calcutta High Court in Judgement dated 29.03.2022 passed in CRA No. 266 of 2020,

wherein it is held that victim has right to appeal against this Judgement, let a copy of this order be forwarded to the Ld. District Magistrate through Ld. Secretary DLSA, Uttar Dinajpur for due intimation to the victim as defined u/s. 2(wa) of Cr.P.C. to inform the right of victim to prefer an appeal in terms of proviso to Section 372 of Cr.P.C. and if necessary, to avail free legal assistance from Legal Service Authority concerned to prefer and prosecute such appeal.

Let the seized alamats/documents/materials, if any, be disposed of/ return to the authorized person of the owner/concerned authority in accordance with law after expiry of the statutory period of appeal.

Let a copy of this order be sent to Ld. C.J.M, Uttar Dinajpur for information and necessary action.

Let a copy of this order along with copy of judgement be sent to Ld. Secretary DLSA, Uttar Dinajpur for information and necessary action.

(Dictated & Corrected)

Sd/-

A.S.J.

Sd/-

Additional Sessions Judge,
2nd Court -cum- Judge, Spl. Court
under P.O.C.S.O. Act, Raiganj,
Uttar Dinajpur