

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 05th day of June, 2026.

POCSO Case No. 47 of 2019
S.T. No. 06(02)/2020
CNR No. WBUD01-002951-2019

STATE

: V e r s u s :

1. Taposh Das @ Taposh Ch. Das,
2. Satyen Das.

....Accused persons

Charge: u/s 363/365/34 of IPC and Sec. 4 of P.O.C.S.O. Act.

Ld. Spl P.P for the State - Mr. Ajay Kr. Das
Ld. Advocate for the defence - Mr. Tarun Sarkar

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 I/C, Itahar PS by stating that on 02.09.2019 at about 11:00 AM, while

the minor daughter of de facto complainant, aged about 16 years, was going to her school, Taposh Das @ Taposh Ch. Das and Satyen Das kidnapped her from deserted road for trafficking her to the foreign country and confined her in unknown place. After knowing about the kidnapping of victim, complainant went to the house of the relative of those miscreants but they abused the complainant with filthy languages and threatened him for his life. This compelled the complainant to lodge complaint against the miscreants.

2. Investigation :-

On the basis of the above complaint, the instant case being Itahar PS case No.292/19, dt. 03.09.2019, u/s 363/365/34 of IPC had been initiated against accused namely Taposh Das @ Taposh Ch. Das and seven others. The case was endorsed to SI Ejabul Hoque 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. 447/2019 dt. 31.12.2019 u/s 363/365/34 of IPC r/w Sec. 4 of P.O.C.S.O. Act.

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 27.02.2020 against the accused namely Taposh Das @ Taposh Ch. Das u/Sec. 4 of P.O.C.S.O. Act and against the accused namely Taposh Das @ Taposh Ch. Das and Satyen Das 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 Ruminaton :-

- 1) Whether the victim girl was below the age of 16 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 07 witnesses who are as follows :-

- 1) PW1- Victim,
- 2) PW2- Father of the victim girl,
- 3) PW3- Jarina Khatun, co-villager,
- 4) PW4- Mother of the victim,
- 5) PW5- Rabbul Hussain, co-villager,
- 6) PW6- Bana Bihari Das, Scribe,
- 7) PW7- Ejabul Hoque, IO.

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

Exhibit Number	Nature of documents.
Exbt:P1/PW1	Sign of Victim on statement u/S 183 BNSS
Exbt:P2/PW1	Sign of Victim on Medical Examination report
Exbt:P2/1/PW1	Sign of Victim on Medical Examination report
Exbt:P2/2/PW7	Medical Examination report of VG
Exbt:P3/PW6	Written complaint
Exbt:P3/1/PW6	Signature of Scribe on written complaint
Exbt:P3/2/PW7	Endorsement of RO on the written complaint
Exbt:P4/PW7	Formal FIR
Exbt:P4/1/PW7	Signature of RO on the formal FIR
Exbt:P5/PW7	Rough sketch map with index

Exbt:P5/1/PW7	Signature of PW7 on rough sketch map
Exbt:P6/PW7	Consent form
Exbt:P7/PW7	Seizure list dt. 31.10.2019
Exbt:P7/1/PW7	Signature of PW7 on the seizure list
Exbt:P8/PW7	Seizure list dt. 18.11.2019
Exbt:P8/1/PW7	Signature of PW7 on the seizure list
Exbt:P9/PW7	Medical examination report of accused
Exbt:P10/PW7	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.1 Victim whose name is not disclosed herewith stated in her examination in chief that the incident took place in the year 2019 while she was the student of Class-X. On the date of the incident, she went to her school. As her parents scolded her, she went to the place of her Pishi without intimating them where she stayed for long time. She proved her signature in her statement under Section 164 of CrPC and her medical examination report.

In her cross-examination, she stated that her Pishi told her that as her absence will cause anxiety to her parents, so, ultimately she returned back. She met with Police at Raiganj Railway Station. Police told her to depose before the Ld. Magistrate and instructed her to state that otherwise Police would arrest her father. Out of fear of Police, she made her statement before the Ld. Magistrate.

P.W.2 Father of victim stated in his examination in chief that the incident took place about 2 years ago while his daughter was 18 years and was student of Class-X. His daughter went missing

from her school. He informed the Member and Pradhan of Gram Panchayat. They found her after one month. Police recovered his daughter from Raiganj. He lodged this case against 8 persons out of which he identified Taposh before the Court. As his daughter was missing, Member and Pradhan of Gram Panchayat told him to sign on the document. He put his LTI. He was not interrogated by the Police.

In his cross-examination, he admitted that as he scolded and beat his daughter, she without intimating him left the school. After her returning back, since one month later, he came to know from his daughter that she went to her Pishi's place. As he was mentally disturbed, he cannot recollect as to who wrote FIR.

P.W.3 Jarina Khatun stated in her examination in chief that she knows complainant. He is her neighbour. He lodged complaint against accused Tapas. She has further stated that the incident took place with the elder daughter of complainant. The said incident took place for about 6-7 years ago. At that time, the age of victim was about 16-17 years. At that time, victim used to study in school. She heard that someone named Tapas took victim away from her school. At the time of the incident, she was not present in her house. When she returned after 20/22 days, she found the VG in our locality.

P.W.4 Mother of victim stated in her examination in chief that she knows complainant. He is her husband. He did not lodge complaint against accused Tapas. She has further stated that the incident took place with the elder daughter of complainant. The said incident took place for about 6-7 years ago. At that time, the age of victim was about 16 years. At that time, victim used to study in school. As they scolded her daughter for not studding property, she fled from her house and went to her maternal aunt's house. At the time of the incident, after 15 days, her daughter

returned home. Police interrogated her.

P.W.5 Rabbul Hussain stated in his examination in chief that he knows complainant who is his neighbour. He lodged complaint against accused Tapas. He has further stated that he has no knowledge about any incident.

P.W.6 Dibas Das stated in his examination in chief that he does not know the complainant. On 03.09.2019 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 the written complaint Exhibit:P3/PW6 and his signature in the written complaint as Exhibit:P3/1/PW6.

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

P.W.7 Ejabul Haque stated in his examination in chief that on 03.09.2019 he was posted Itahar PS as SI of Police. At that time SI Abhijit Dutta was the O.C of Itahar PS. he knows his handwriting and signature having been worked with him. On that day he received one complaint from complainant by putting his signature and endorsement on the written complaint and then filled up the formal FIR being Itahar PS case no. 292 dt. 03.09.2019 u/s 363/365/34 of IPC against accused Tapas Das and seven others. Thereafter charge of investigation was handed over to him. After taking up investigation, he examined the complainant and available witnesses and recorded their statement u/s 161 of CrPC. Thereafter, he visited P.O and prepared rough sketch map with separate index. Thereafter, he arrested accused Pradip Das, Ajit Das and Sanjit Das from their house situated at village Paloibari and forwarded them before the Ld. Court. Then, he arrested accused Chandana Das from her house situated at village Paloibari and forwarded her before the

Ld. Court. Then, he arrested victim from Raiganj Railway Station. He made a prayer before Ld Court for recording statement of VG u/s 164 CrPC and thereafter collected the copy of the said statement. Then, he sent the VG to Raiganj Govt. Medical College & Hospital for her medical examination and her medical examination was done after taking her consent. After the medical examination of victim, he collected the consent form, medical examination report of victim from the hospital. After the medical examination, he seized the vaginal swab and smear of VG produced by L.C. Payel Roy under seizure list prepared by him in presence of witnesses and took the signature of producer and witnesses. He made prayer for adding section 4 of POCSO Act. He seized the birth certificate of VG produced by her father under seizure list in presence of witnesses and took the signature of producer and witnesses. Then, he returned the birth certificate of VG produced by her father to her under zimmanama. Then, he sent the accused Tapas Das and Satyen Das to Raiganj Govt. Medical College & Hospital for their medical examination report and collected their medical examination report. After completion of investigation and consultation with the Superior Authority he submitted charge-sheet vide CS no. 447/2019 dt. 31.12.2019 u/s 363/365/34 of IPC and Sec. 4 of POCSO Act against the FIR named accused persons namely Tapas Das and Satyen Das by discharging the other seven FIR named persons.

He proved the endorsement with signature of RO in the written complaint as Exbt. P3/2/PW7, Formal FIR Exbt.P4/PW7, the signature of RO on Formal FIR Exbt.P4/1/PW7, the rough sketch map with separate index Exbt.P5/PW7, his signature on the rough sketch map with separate index Exbt.P5/1/PW7, consent form Exbt.P6/PW7, Medical examination report of VG Exbt.P2/2/PW7, Seizure list dt. 31.10.2019 Exbt.P7/PW7, his signature in the seizure list Exbt.P7/1/PW7, Seizure list dt. 18.11.2019 Exbt.P8/PW7, signature in seizure list Exbt.P8/1/PW7, Medical examination report of accused Tapas Das Exbt.P9/PW7 and Medical examination report

of accused Satyen Das Exbt.P10/PW7.

He identified the accused Tapas Das and Satyen Das before the Court.

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

8. Examination of Accused :-

After completion of the testimonies of prosecution witnesses, on 04.06.2026, 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 16 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 accused persons and taking away to an unknown place for selling her in a foreign country but in his oral evidence he did not make such allegation. Not only that he specifically stated in his oral evidence that out of suspicions, he lodged complaint against the accused persons. From his testimony, it is evident that there is no allegation of sexual assault on VG. This witness failed to corroborate his testimony with FIR. As such, his deposition can not be considered as reliable.

PW-4 mother of VG has categorically stated that victim her daughter, was aged about 16 years. On the date of the incident, they scolded their daughter for her study, for such reason she left the house and went to the house of her relative without informing them. For such reason complainant lodged complaint. 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 on the date of the incident, she went to her school. As her parents

scolded her, she went to the place of her Pishi without intimating them where she stayed for long time. For such reason her father lodged complaint. Therefore, this witness also failed to corroborate her testimony with FIR. Not only that in her cross-examination, she has admitted that no physical assault took place. Therefore, from the oral testimony of this witness, it transpires that there is no allegation of 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 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-3 Jarina Khatun is the neighbour of the complainant who identified the accused persons and stated that accused Taposh took the victim away about 6/7 years ago while victim was 16/17 years of age but her such statement neither find corroboration with the victim nor with the complainant. Not only that, this witness admitted that she heard about the incident but cannot say as to who informed her about the same. Therefore, in absence of corroboration of her testimony with the complainant or victim, it cannot be inferred that her testimony is sacrosanct and sufficient enough to hold the accused guilty of offence as charged against

them.

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

PW-7 Ejabul Hoque, 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 Taposh Das @ Taposh Ch. Das with the charge for offence u/s 4 of P.O.C.S.O. Act, 2012 and against accused persons namely Taposh Das @ Taposh Ch. Das and Satyen Das 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.

Before this court part with the case record, this court considers, it expedient to record the deep concern at the misuse of the provisions of not only POCSO Act but also other provisions of penal law by the de-facto complainant of this case. In this case, charge was framed against the accused the accused person namely Taposh Das @ Taposh Ch. Das for offence punishable u/Section 4 of POCSO Act, 2012. On scrutiny of entire evidence on record and in view of the above discussion, this court is convinced that the de-facto complainant/PW2 (victim's father) lodged a false complaint against the accused Taposh Das @ Taposh Ch. Das in respect of offence u/s 3 punishable u/s 4 of POCSO Act, thus, he should be punished accordingly.

Considering all aspects, I am of the view that the punishment with fine would meet the ends of justice.

Hence, it is

O R D E R E D

that the accused person namely Taposh Das @ Taposh Ch. Das is found not guilty of the offence u/s Section 4 of POCSO Act, 2012 and accused persons namely Taposh Das @ Taposh Ch. Das and Satyen Das 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.

Furthermore, the de-facto complainant/PW2 is sentenced to pay fine of Rs. 2,000/-(Rupees Two Thousand Only), I/D to suffer S.I for ten(10) days.

The de-facto complainant is directed to deposit the fine amount to the Judicial Cashier, Raiganj withing one month from the receipt of the notice

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Issue notice accordingly.

(Dictated & Corrected)

A.S.J.

Additional Sessions Judge,

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

POCSO Case No. 47 of 2019
CNR No. WBUD01-002951-2019
J.O. Code No.WB01307

Order No. 41, dt. 05.06.2026.

The accused persons namely Taposh Das @ Taposh Ch. Das and Satyen Das 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 Taposh Das @ Taposh Ch. Das is found not guilty of the offence u/s Section 4 of POCSO Act, 2012 and accused persons namely Taposh Das @ Taposh Ch. Das and Satyen Das 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.

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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.

Furthermore, the de-facto complainant/PW2 is sentenced to pay fine of Rs. 2,000/-(Rupees Two Thousand Only), I/D to suffer S.I for ten(10) days.

The de-facto complainant is directed to deposit the fine amount to the Judicial Cashier, Raiganj withing one month from the receipt of the notice.

Issue notice accordingly.

(Dictated & Corrected)

A.S.J.

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

No.....Dated, Raiganj, the 16th day of May, 2026.

Copy of order is sent to for information and necessary action to :-

- 1) Ld. C.J.M, Uttar Dinajpur.
- 2) Ld. Secretary DLSA, Uttar Dinajpur

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