

**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 June, 2026.

POCSO Case No. 34 of 2024
S.T. No. 04(11)/2024
CNR No. WBUD01-002421-2024

STATE

: V e r s u s :

Raj Das @ Sankar Das,
.....Accused person

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

Ld. Spl P.P for the State - Mr. Sujit Sarkar

Ld. Advocate for the defence - Ms. Priyanka Bhowmick

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, Raiganj PS by stating that on 08.04.2024 at about 04:00 PM, the minor daughter of de facto complainant found missing from her house. She believed that some unknown miscreants kidnapped her minor daughter, aged about 16 years with ulterior motive. Thus, the complaint.

2. Investigation :-

On the basis of the above complaint, the instant case being Raiganj PS case No.361/2024, dt. 09.04.2024, u/s 363/365 of IPC had been initiated against the unknown miscreants. The case was endorsed to SI Baidyanath Sarkar for investigation and he took up the charge of investigation. Then, victim was recovered and prayer was made for adding Section 6 of POCSO Act. After completion of investigation, I.O. submitted Charge-Sheet against the accused namely Raj Das @ Sankar Das vide CS no. 126/25 dt. 18.02.2025 u/s 363/365 of IPC r/w Sec. 6 of P.O.C.S.O. Act.

3. Commitment :-

Copy of this case was served to the accused person 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 21.11.2024 against the accused namely Raj Das @ Sankar Das Sec. 363/365 of IPC r/w Sec. 6 of P.O.C.S.O. Act. The charge was read over and explained to the said accused

person, to which he 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- Mother of the victim girl, Complainant,
- 3) PW3- Jogesh Barman, co-villager,
- 4) PW4- Barun Roy, co-villager,
- 5) PW5- Satish Ch. Barman, co-villager,
- 6) PW6- Rinku Mahato, co-villager,
- 7) PW7- S.I. Baidyanath Sarkar, I.O.

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

Exhibit Number	Nature of documents.
Exbt:P1/PW1	Signature of PW1 on recovery memo
Exbt:P2/PW1	Consent form
Exbt:P2/1/PW1	Signature of VG on consent form
Exbt:P3/PW1	Statement u/S 164 of CrPC
Exbt:P3/1/PW1	Sign of PW1 on statement u/S 164 of CrPC

Exbt:P4/PW2	Written complaint
Exbt:P4/1/PW2	Signature of PW2 on written complaint
Exbt:P4/2/PW7	Endorsement of RO on the written complaint
Exbt:P5/PW7	Seizure list dt. 11.07.2024
Exbt:P5/1/PW2	Signature of PW2 on seizure list
Exbt:P5/2/PW7	Signature of PW7 on seizure list
Exbt:P6/PW2	Zimmanama
Exbt:P6/1/PW2	Sign of PW2 on Zimmanama
Exbt:P7/PW7	Formal FIR
Exbt:P7/1/PW7	Signature of RO on the formal FIR
Exbt:P8/PW7	Rough sketch map with index
Exbt:P8/1/PW7	Signature of PW7 on rough sketch map
Exbt:P9/PW7	Seizure list dt. 02.05.2024
Exbt:P9/1/PW7	Signature of PW7 on seizure list
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:-

PW1 Victim stated in her examination in chief that her mother lodged complaint on 09.04.2024 while she was student of class-X and was aged about 17 years. On the date of the incident, accused took her away forcefully to Maldah by pressing her face with handkerchief from her house. On that night, at about 10 AM, he got married with her and took her to Farakka Station and from there to Howrah Station by bus.

Then, she was taken to Delhi and stayed for 24 days. Accused confined her in a room and committed rape on her. Her mother lodged case as she was missing. Accused wanted to sell her. When, he came to know about the case, as police made a phone call to him. Then, he brought her and left her at Raiganj Railway Station. She identified the accused before the Court. She proved her recovery memo. Police took her to home and from there she was sent to Hospital for her medical examination. She proved her signature in the consent form and her medical examination report. She made her statement before the Ld. Magistrate u/s 164 of CrPC. She proved her signature in the recovery memo as Exhibit:P1/PW1, Consent form Exhibit:P2/PW1, her signature in medical examination report Exhibit:PW2/1/PW1, her statement under Section 164 of CrPC Exhibit:P3/PW1, her signature on statement Exhibit:P3/1/PW1.

In her cross-examination, she stated that she got acquainted with accused through Facebook. She admitted that in the year 2024, in the month of April accused Raj Das @ Sankar took her along with her mother to Delhi for housemaid. There a dispute arose in between her and the accused. She told her mother about the said dispute. For such reason, her mother lodged the present case. No sexual assault took place as stated by her earlier. Not only that, she made her statement before the Ld. Magistrate as per the instruction of her co-villagers. Due to misunderstanding, the complaint was lodged.

PW2 mother of victim stated in her examination in chief that she lodged complaint against accused Raj Das @ Sankar.

She identified the accused appeared on the screen through V.C. She has further stated that the incident took place in the year 2024 in the month of April. On the date of the incident, a dispute arose in between her and accused Raj Das @ Sankar. He abused them and misbehaved with her daughter. Later, her daughter got missing and on search, she learnt that accused Raj Das @ Sankar took her daughter away. On the same day night, her daughter returned home, but due to missing of her daughter, she lodged complaint against the accused. The complaint was written by Tarun Kumar Roy as per her instruction. Thereafter, he read over the contents to me. After understanding the same, she put her signature on the written complaint. After lodging of complaint, police sent her daughter for her medical examination and she gave consent for the medical examination of my daughter. Police also sent her daughter for recording of her statement under Section 164 of CrPC. Police seized the birth certificate of her daughter under seizure list in which she put her signature. Thereafter, police returned the original birth certificate of her daughter under zimmanama. She proved the written complaint as Exhibit:P4/PW2, her signature in the written complaint Exhibit:P4/1/PW2, her signature in the seizure list Exhibit:P5/1/PW2, zimmanama Exhibit:P6/PW2 and her signature in the zimmanama Exhibit:P6/1/PW2.

In her cross-examination, she stated that when her daughter returned home, she told her that no incident of sexual assault took place as stated in the written complaint. Her daughter did not go with the accused as stated in the complaint. As dispute arose in between her and accused Raj Das @ Sankar, as such, she lodged complaint against him as

he misbehaved with both herself and her daughter. She admitted that due to misunderstanding, complaint was lodged. She has no grievance against the accused person.

PW3 Jogesh Barman stated in his examination in chief that complainant is his neighbour. He knows her daughter but he does not know the accused person. He has no knowledge about any incident. Police did not interrogate him.

PW4 Barun Roy stated in his examination in chief that complainant is his neighbour. He knows her daughter but he does not know the accused person. He has no knowledge about any incident. Police did not interrogate him.

PW5 Satish Ch. Barman stated in his examination in chief that complainant is his neighbour. He knows her daughter but he does not know the accused person. He has no knowledge about any incident. Police did not interrogate him.

PW6 Rinku Mahato stated in his examination in chief that complainant is his neighbour. He knows her daughter but he does not know the accused person. He has no knowledge about any incident. Police did not interrogate him.

PW7 SI Baidyanath Sarkar, I.O of this case, stated in his examination in chief that on 09.04.2024, he was posted at Raiganj PS as S.I of Police. On that day, SI Prasanta Paul was the 2nd Officer of Raiganj PS. he knows his handwriting and signature having been worked with him. On that day he received complaint from complainant after putting his signature

and endorsement on the written complaint. Then, he filled up the formal FIR on the basis of written complaint being Raiganj PS Case No. 361/24 dt. 09.04.2024 u/S 363/365 of IPC against accused Raj Das @ Shankar Das. Thereafter, charge of investigation was handed over to him. After taking up the investigation, he perused the FIR, he examined the complainant and available witnesses and recorded their statement u/s 161 of CrPC. Then, he visited PO and prepared rough sketch map with separate index in my own handwriting. Thereafter, he recovered victim from Raiganj Railway Station. He seized the birth certificate of victim produced by her mother under seizure list and prepared the seizure list in presence of witnesses and took the signatures of the witnesses and the producer. Then, he sent the victim to RGMCH for her medical examination and collected her medical examination report. Thereafter, he made prayer for adding Section 6 of POCSO Act against the accused which was allowed by the Ld. Court. Then, he seized the vaginal swab and smear of victim produced by LCV Purnima Das under seizure list dt. 02.05.2024 and prepared the seizure list in presence of witnesses and took the signatures of the witnesses and the producer. Then, 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 examined the available witnesses and recorded their statement u/S 161 of CrPC. He arrested accused from Gangarampur PS, Dakshin Dinajpur and forwarded him before the Court. Thereafter, he produced the accused Raj Das @ Shankar to RGMCH for his medical examination and after his medical examination, he collected his medical examination report.

Thereafter, he sent the seized material to Jalpaiguri RFSL for examination. After completion of investigation and permission with the superior authority, he submitted CS vide CS No.709/24 dt. 29.02.2024 u/S 363/365 of IPC and Section 6 of POCSO Act against accused Raj Das @ Shankar. He proved the endorsement with signature of RO in written complaint as Exhibit:P4/2/PW7, formal FIR Exhibit:P7/PW7, the signature of RO in formal FIR Exhibit:P7/1/PW7, the rough sketch map with separate index Exhibit:P8/PW7, his signature in rough sketch map with separate index Exhibit:P8/1/PW7, seizure list dt. 11.07.2024 Exhibit:P5/PW7, his signature in the seizure list Exhibit:P5/2/PW7, the medical examination report of victim Exhibit:P2/PW7, seizure list dated 02.05.2024 Exhibit:P9/PW7, his signature in the seizure list Exhibit:P9/1/PW7 and the medical examination report of accused as Exhibit:P10/PW7. He identified the accused Raj Das @ Shankar before this 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 25.06.2026, the accused person was examined u/s 313 of Cr.PC wherein he stated that he is innocent and he declined to adduce any defence witness.

9. Argument :-

Ld. Spl P.P. has submitted that PW2 defacto complainant has adduced her testimony by corroborating the FIR 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 mother PW-2 defacto complainant have supported the prosecution case apart from the other witnesses. In the circumstances, the accused person 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 are kidnapping and causing sexual assault on VG.

PW2 / defacto complainant who is the mother of VG, though lodged complaint against the accused person for kidnapping and sexual assault on VG but in her oral evidence she did not make such allegation. Not only that she

specifically stated in her oral evidence that out of suspicions, she lodged complaint against the accused person. From her testimony, it is evident that there is no allegation of sexual assault on VG. This witness failed to corroborate her testimony with FIR. As such, her deposition can not be considered as reliable.

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 on 09.04.2024, accused took her away forcefully to Maldah by pressing her face with handkerchief from her house and at about 10 AM, he got married with her and took her to Farakka Station. From there to Howrah Station by bus. Then, she was taken to Delhi and stayed for 24 days. Accused confined her in a room and committed rape on her. Her mother lodged case as she was missing. Accused wanted to sell her. When, he came to know about the case, as police made a phone call to him. Then, he brought her and left her at Raiganj Railway Station but in her cross-examination, she stated a different story and confessed that in the year 2024, in the month of April accused Raj Das @ Sankar took her along with her mother to Delhi for housemaid. There a dispute arose in between her and the accused. She told her mother about the said dispute. For such reason, her mother lodged the present case. No sexual assault took place as stated by her earlier. Therefore, from the oral testimony of this witness, it transpires that there is no allegation of kidnapping and sexual

assault caused by the accused on her. 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 co-villagers.

Therefore, it reveals that the oral evidence of P.W1 to PW-2 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, PW-4, PW-5 and PW-6 are the neighbours of the complainant who only identified the accused persons but did not state about any incident alleged to have taken place on 08.04.24. Therefore, these witnesses also failed to support the prosecution case.

PW-7 SI Baidhyanath Sarkar, 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 person.

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 Raj Das @ Sankar Das with the charge for offence u/s 363/365 of IPC and Sec. 6 of P.O.C.S.O. Act, 2012. As such, the accused person is 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 Raj Das @ Sankar Das is found not guilty of the offence u/s 363/365 of IPC and Section 6 of POCSO Act, 2012.

Accordingly, the accused person above named is acquitted

from the case u/s 235(1) of the Cr.P.C.

The accused person shall be released if not wanted in any other case by executing a bond amounting of Rs.100/- with one surety of like amount 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. 34 of 2024
CNR No. WBUD01-002421-2024

Order No. 21, dt. 30.06.2026.

The accused person namely Raj Das @ Sankar Das on CB is 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 Raj Das @ Sankar Das is found not guilty of the offence u/s 363/365 of IPC and Section 6 of POCSO Act, 2012.

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

The accused person shall be released if not wanted in any other case by executing a bond amounting of Rs.100/- with one surety of like amount 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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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