



Scan this QR code with mobile app
“eCourts Services” to get more details

FORM – A

IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE. CUM DESIGNATED SPECIAL COURT UNDER POCSO ACT, ISLAMPUR, UTTAR DINAJPUR. PRESENT: SRI PLABAN MUKHERJEE Additional Sessions Judge, Cum Special Court under POCSO Act, Islampur, Uttar Dinajpur Date of delivery of judgment - <u>12th day of June, 2026</u> <u>Case No: POCSO Case No. 51 of 2019</u> <u>TR. No. 29 of 2025</u> <u>[Arising out of Karandighi P.S. Case No. 362/ 2019 dated.</u> <u>02.11.2019]</u>	
CNR Number : WBUD-05-001276-2019 [J.O. Code- WB01427]	
Complainant :	State of West Bengal
Represented by :	Ld. Special P.P. - Mukhtar Ahmed
Accused person:	Susil Nath
Represented by :	Ld. Advocate : Jamaluddin

FORM – B

Date of Offence	27.10.2019
Date of FIR	02.11.2019
Date of Charge-sheet	23/06/2021
Date of Framing of Charges	18/07/2025
Date of commencement of Evidence	11/09/2025
Date on which Judgment is reserved	10.06.2026
Date of the Judgment	12.06.2026
Date of the Sentencing Order, if any	N.A.

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.
1.	Susil Nath	Favoured with an order u/s 438 Cr.P.C	Obtained regular bail 10.02.2023	Sec.212 IPC	Acquitted	NA	N.A.

FORM – C

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHERS WITNESS)
P.W. 1	The father of the Victim girl	The de-facto complainant
P.W. 2	The Victim girl	The Victim girl
P.W. 3	The mother of the Victim girl	The mother of the Victim girl
P.W. 4	Bapi Singha	Other Witness
P.W. 5	Gobinda Singha	Other Witness

B. Defence Witnesses, if any: NIL

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHERS WITNESS)
D.W.		

C. Court Witnesses, if any: NIL

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHERS WITNESS)
C.W.		

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:

Sl. No.	Exhibit Number	Description
1.	Exbt. P-1	The Written Complai
2.	Exbt. P-2	Signature of P.W. 1 in the seizure list datted 02.11.2019
3.	Exbt. P-3	Signature of P.W. 1 on the Zimmanama
4.	Exbt. P-4	Statement of victim girl under section 164 Cr.P.C.
5.	Exbt. P-5	Signature of P.W. 2, i.e. victim girl in the medical report
6.	Exbt. P-5/1	The Medical Report
7.	Exbt. P-6	Rough Sketch Map with Index

B. Defence: NIL

Sl. No.	Exhibit Number	Description

C. Court Exhibits: NIL

Sl. No.	Exhibit Number	Description

D. Material Objects:

Sl. No.	Material Object Number	Description

J U D G M E N T

1. The sole accused person, namely, Susil Nath stood the trial to answer the charge under Sections - 212 of the Indian Penal Code, 1860 (hereinafter referred to as I.P.C.).

2. The case of the prosecution may be epitomized as follows : –

That in the instant case the wheels of criminal law started rolling on the strength of the written complaint filed by the father of the victim girl at Karandighi Police Station alleging, inter alia, that his daughter aged about 15 years went to see Kali Puja of Rasakhowa, but even after lapse of the entire night, she did not return. It is further alleged that despite through search in all places including at the house of their relatives they could trace out the victim girl anywhere. On 01.11.2019 at about 6.00 p.m. the victim girl was seen crying by the side of the Road of Jogipara Basti of Rasakhowa and on being asked the victim girl divulged before her father that the accused persons, namely, Joydeb Nath and Susil Nath took her to their home by inducing her in several ways and thereafter she was raped by the accused Joydeb Nath several times at their house. Accordingly the de-facto informant had lodged the complaint at Karandighi Police Station with a request to take legal action against the accused person.

3. On the basis of the said written complaint, Karandighi Police Station Case No. 362 of 2019 dated 02/11/2021 under sections 376 of the I.P.C and section 4 of the POCSO Act was started against the accused persons, namely, Joydeb Nath and Susil Nath and the then Inspector-in-charge of Karandighi Police Station entrusted the case to S.I. Sujit Ranjan Paul for investigation.

4. The investigation ultimately culminated into filing of charge sheet against the accused person, namely, Joydeb Nath under Sections 376 of the I.P.C. and section 4 of the POCSO Act and under section 212 of the IPC against Susil Nath on the strength of Karandighi P.S. Charge Sheet No. 257/ 2021 dated 23/06/2021. Accordingly, cognizance of offence was taken by this Court under section 190(1) (b) of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.'), read with the provision of section 33(1) of the POCSO Act on the basis of the police report on 25.06.2021. Copies of the papers referred to in Section 173 of Cr.P.C. was supplied to the accused person Susil Nath in compliance with the mandate under section - 207 of Cr.P.C. Be it noted here that the principal accused person, namely, Joydeb Nath remained absconding since inception and finally on 04.10.2024 this case was filed for the present against him.

5. This Court on 18/07/2025 framed charge against the accused person, namely, Susil Nath under sections – 212 of the I.P.C. Charge was read over and explained to the accused person, to which he pleaded 'not guilty' and claimed to be tried. Accordingly, the trial of the accused person has begun as per provisions of chapter XVIII of the Cr.P.C. read with the relevant provisions of the POCSO Act. During trial, the prosecution produced and examined as many as five witnesses. Apart from that the prosecution also relied upon some documentary evidences.

6. After closure of the prosecution evidence, the accused person was examined under section 313 of Cr.P.C. read with Section 281 of Cr.P.C on 09-06-2026. The examination of accused person was recorded in prescribed forms. The accused person pleaded his innocence.

7. No witness was produced on behalf of the defence. The defence did not file any written statement in this case. From the trend of cross examination by the defence to the prosecution witnesses and answers given by the accused person during his examination under section 313 of Cr.P.C., it is clear that the defence case is nothing but denial of the prosecution case in entirety.

8. POINTS FOR DETERMINATION

- a) Whether the accused person, Susil Nath, harboured his son, Joydeb Nath in the committing the offence of penetrative sexual assault?
- b) Whether the prosecution has been able to prove the charges against the accused persons beyond all shades of reasonable doubt?

DECISION WITH REASONS

9. Both the points are taken up together for the sake of convenience and to avoid unnecessary repetitions. After going through the case record, evidence of witnesses, exhibited documents and hearing argument of both sides, it becomes essential to assess and scan the evidence on record at first to separate the chaff from the grain.

10. Argument placed by the Ld. P.P. in-charge:-

- a) Ld. P.P. in Charge submitted that the prosecution has been able to prove the present case by preponderance of probabilities against the present accused person;
- b) It is further submitted that the victim girl has clearly alleged about the relation of herself the principal accused person which triggered the presumption under section 29 of the POCSO Act.
- c) It is also submitted that the prosecution has been able to corroborate the evidence of the victim girl with the support of the substantive evidence of other prosecution witnesses including the mother of the victim girl which connect the accused person with the offence.

11. Argument advanced by the Ld. Defence Counsel :-

- a) Learned Defence Counsel submitted that none of the witnesses has been able to bring any consistent allegation against the present accused person.
- b) It is further submitted that the de-facto informant did not corroborate the fact as alleged in the written complaint. It is vociferously argued that the written complaint is not a substantive piece of evidence and it has no evidentiary value unless corroborated by the maker of the same at the time of his/ her evidence before the Court.
- c) It is further submitted hat none of the independent witnesses of the prosecution corroborated the series of facts as disclosed either by the victim girl or the de-facto informant which would go against the accused person;

d) It is further submitted that the prosecution witnesses did not corroborate the versions of each other;

e) So considering these all aspects Ld. Defence Counsel submitted that the prosecution has been miserably failed to bring home the charges levelled against the accused persons beyond all shadow of reasonable doubts.

12. Charges were framed against the accused person, namely, Susil Nath sections – 212 of the I.P.C.. Before entering into the hair splitting analysis of the entire evidence on record, we need to discuss about the essential ingredients of the offences the accused persons charged with. Section 212 of the IPC provides punishment for harbouring offender in the commission of a particular offence and the extent of punishment depends upon the extent of prescribed punishment of the offence which is harboured by the offender. In this case charge sheet was submitted against the principal accused person under section 376 of the IPC and section 4 of the POCSO Act which was alleged to be harboured by the present accused person.

13. Now, it is necessary to decide that how far the prosecution has been able to establish the facts as alleged. The principal facts surrounding the commission of the alleged offence are that the victim girl was alleged to be induced by the accused persons and they took the victim girl to their house. Thereafter one of the accused persons committed repeated penetrative sexual assault upon the victim girl who at that time was aged about 15 years. The statement of the victim girl recorded under section 164 of the Cr.P.C. was admitted into evidence in course of her evidence being P.W. 2 and the same has been marked as Exbt. P-4. The victim girl disclosed before the learned Magistrate that on the day of Kali Puja (Sunday) the principal accused person took her to Malda and misbehaved with her. It is further alleged that the principal accused person also established physical relation with her. Thereafter on Friday the said accused person brought the victim girl at his house and fled away therefrom keeping the victim girl therein. It is further alleged that the father of the principal accused person knew everything about the incident and he did not allow her enter into their house.

14. In course of her substantive evidence the victim girl identified the present accused person on dock. The victim girl being P.W. 2 deposed that she love affairs with Joydeb Nath but he refused to marry her and for that reason her father lodged complaint against him and his father. P.W. 2 further deposed that she was brought

before the magistrate before whom she had disclosed about the incident and she was also examined by the doctor. The father of the victim girl being de-facto informant (P.W. 1) has corroborated the version of his daughter by deposing that he has five daughters out of whom his eldest daughter developed a love relationship with Joydeb Nath. P.W. 1 further deposed that he did not accept the said relationship of her eldest daughter with Joydeb Nath and for that reason he lodged complaint against them. Thus it can be seen that the de-facto informant materially corroborated the version of the victim girl. Both of them admitted about the relationship of the victim girl and accused person. P.W. 1 deposed that he handed over the Birth Certificate of the victim girl to the police and he proved his signature upon the seizure list dated 02.11.2019. Upon scrutiny of the seizure list it appears that the date of birth of the victim was noted therein as 06.12.2004 and the alleged incident occurred on 27.10.2019. Accordingly, prima facie it appears that on the date of offence the victim girl has not her majority. Ld. Spl. P.P. submitted that being minor, the consent of the victim girl was of no use and admission of the victim girl about her relation with the accused person proves the foundational facts in the present case. It is pertinent to add here that the mother of the victim girl being P.W. 3 supported the version of her husband in toto. P.W. 3 has also deposed that she has five daughters out of whom her elder daughter developed a love relationship with Joydeb Nath. P.W. 3 further deposed that they did not accept the relationship with her elder daughter with Joydeb and for that reason her husband lodged complaint against them. Other two independent witnesses also corroborated the contention of the other prosecution witnesses in material particulars, but all of them deposed only admitting the fact of love relation with the accused Joydeb Nath. Surprising to note here that none of the prosecution witnesses have disclosed anything against the present accused person in support of his harbouring his son in the commission of the alleged offence.

15. It is apt to mention here neither the de-facto complainant nor the victim girl have corroborated their version as stood in their written complaint or statement under section 164 Cr.P.C. respectively. The prosecution has not brought on record the birth certificate of the victim girl. The de-facto complainant in course of his cross-examination divulged that he could not recollect the content of his written complaint at present. The victim girl further admitted that she cannot exactly recollect her statement what she had stated before the learned Magistrate. It is trite law that a written complaint or a statement recorded under section 164 Cr.P.C. are not a substantive piece of evidence and these can be used only for the purpose of

corroboration and contradiction of its maker. It is apt to mention here that though the victim girl in her statement under section 164 Cr.P.C. brought allegation about sexual exploitation by the principal accused person, but she did not say anything in course of her substantive evidence. The victim girl further alleged in her statement that the father of the principal accused person knew everything and he did not allow her to enter into their house. But the victim girl also omitted to disclose this portion of statement at the time of her substantive evidence. Accordingly, such omission amounts to material contradiction in the facts and circumstances of the present case.

16. Having considered the entire set of facts of the present case and the principles of law, I am of the view that evidence relied on by prosecution in establishing guilt of accused person fall short to draw an inevitable inference of guilt of the accused person for the charge levelled against him. In other words, prosecution has not been able to prove by preponderance of probabilities that the accused person, namely, Sushil Nath, had harboured his son Joydeb Nath in the commission of penetrative sexual assault upon the victim girl. There are sufficient contradictions as well as major improvements and/or embellishment in the prosecution case which restricts this Court to draw an adverse inference against the accused person. Resultantly, the prosecution has failed to bring home the charges levelled against the accused person.

17. In short, the case of the prosecution fails.

18. At this juncture, it would be apt to mention here that as the prosecution has failed to establish the charge and the prosecution also did not bring on record in support of any kind of mental trauma or rehabilitation of the victim girl in consequence of such alleged exploitation in the instant case, which would impel this Court to consider the aspect of granting compensation to the victim girl on account of her physical and mental trauma in view of the provisions as engrafted in sub section (8) of section 33 of the POCSO Act read with rule 9 of the Protection of Children from Sexual Offences Rules, 2020. Accordingly, this Court is of the considered view that the victim girl is not entitled to get any compensation in this case.

19. Hence, it is -

ORDERED

that the sole accused person, namely, Sushil Nath is found not guilty of the charge under Section 212 of the Indian Penal Code, 1860 and accordingly the accused person is hereby acquitted from his respective charge under Section- 212 of the I.P.C. in terms of Section- 235 (1) of the Code of Criminal Procedure.

The sole accused person be set at liberty at once.

The sole accused person will remain on the existing bail bond for six months from this day in compliance of the provisions of Section- 437A of the Code of Criminal Procedure.

The Seized articles, i.e. the Birth Certificate of the victim girl be handed over to the victim girl as per existing rules after expiry of the statutory period of appeal, if not handed over till date.

The victim girl is not entitled to get any compensation in view of the discussions made in the body of this judgment.

Note in the relevant register.

Upload in the C.I.S.

In compliance to the Order of the Hon'ble High Court dated 29.03.2022 in C.R.A being No. 266 of 2020 with C.R.A.N 01 of 2020, let a copy of this Judgment be sent to the District Magistrate, Uttar Dinajpur and Ld. Secretary, D.L.S.A., Uttar Dinajpur at Raiganj to their official e-mails for their information and due compliance in terms of aforementioned Order of the Hon'ble High Court.

The de-facto Complainant, although is not present today, has right to prefer an appeal under Section 372 of the Cr.P.C. and, if necessary, she can avail free legal assistance through the legal services authorities concerned to prefer and prosecute such appeal.

Dictated & Corrected by me.

(PLABAN MUKHERJEE)
Additional Sessions Judge,
cum Special court (POCSO Act)
Islampur, Uttar Dinajpur,

(PLABAN MUKHERJEE)
Additional Sessions Judge
cum Special court (POCSO Act)
Islampur dt. 12.06.2026