

GAHC010278892024



2026:GAU-AS:11901

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.A./126/2025

SRI SARAT LIKSON
S/O- LATE NABIN LIKSON,
R/O- BAKSU MOUPIA GAON,
P.O. AND P.S- SIVASAGAR,
DIST.- SIVASAGAR, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR

2:BISWAJIT DAS
S/O- TILAK DAS.
R/O- BAKSU KHELUA KOIBARTA GAON

P.O. AND P.S - SIVASAGAR
DIST.- SIVASAGA

Advocate for the Petitioner : MS. P BORAH, MR K. GOGOI

Advocate for the Respondent : PP, ASSAM, MR P DOLEY(R-2),MR J SINGH(R-2),MS S JAIN(R-2),MR H AGARWAL(R-2),MR. B D KONWAR SR. ADV.(R-2)

Linked Case : I.A.(Crl.)/358/2025

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Advocate for : MS. P BORAH
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR

BEFORE

HON'BLE MR. JUSTICE SANJEEV KUMAR SHARMA

Date on which judgment is reserved : 14.07.2026
Date of pronouncement of judgment : 20.08.2026
Whether the pronouncement is of the : N/A
operative part of the judgment ?
Whether the full judgment has been : Yes
pronounced?

JUDGMENT & ORDER (CAV)

(Sanjeev Kumar Sharma, J)

Heard Mr. S. Borthakur, learned Senior Counsel, assisted by Ms. P. Borah,
learned counsel for the appellant. Also heard Mr. P. Borthakur, learned Public

Prosecutor for the State of Assam, as well as Mr. P. Doley, learned counsel for the respondent No. 2/informant.

2. This appeal is directed against the Judgment & Order dated 24.10.2024 passed by the Addl. Sessions Judge-cum-Special Judge (POCSO), Sivasagar, in Special (POCSO) Case No. 70/2023, convicting the appellant, namely, Sri Sarat Likson, under Section 10 of the POCSO Act and sentencing him to undergo rigorous imprisonment for a period of 5 (five) years and also to pay a fine of Rs. 5,000/-, and in default thereof, to undergo further rigorous imprisonment for a period of 3 (three) months.

3. The prosecution case, in brief, is that the above-named accused person, being the Headmaster of an L.P. School, had touched the breasts of the victim during the class and thereby sexually assaulted her while she was studying in Class IV in the said school. To that effect, a case was registered vide Sivasagar P.S. Case No. 153/2023 under Sections 354/354-A IPC read with Section 10 of the POCSO Act, and after completion of investigation, the police submitted a charge-sheet against the accused person under Sections 354/354-A IPC read with Section 10 of the POCSO Act.

4. Upon consideration of the material on record, and upon hearing the defence and the prosecution, a charge under Section 354 IPC read with Section

10 of the POCSO Act was framed against the accused, which was read over and explained to him. The accused denied the said charge and claimed to be tried.

5. During the course of the trial, 10 (ten) witnesses were examined by the prosecution to prove the charges under Section 354 IPC read with Section 10 of the POCSO Act, and thereafter, the prosecution evidence was closed on the prayer made by the learned Special Public Prosecutor.

6. Upon the closure of the prosecution evidence, the statement of the accused was recorded under Section 313 Cr.P.C. The accused admitted the age of the victim and certain factual aspects of the case, but denied the incriminating materials appearing against him. He claimed to be innocent and declined to adduce any evidence in his defence.

7. The learned trial Court heard the arguments advanced by the learned counsel for the prosecution as well as the accused and also perused the case record and the relevant documents and came to the decision as aforesaid.

8. The evidence of the case may be discussed at this stage. PW-1, the father of the victim, deposed that he lodged the ejahar against the accused person. He knew the accused. The incident took place on 27.09.2023. On that day, while he was playing carrom in front of his house, his mother, Subhadra Das, came,

called him aside and asked him to go to the house of the Gaonbura. When he questioned his mother, she told him that the accused had misbehaved with his elder daughter, the victim. The accused was the Headmaster of his elder daughter's school. His daughter was studying in Class IV. Then he asked his wife. She did not tell him what had happened for fear that he would become angry. His daughter was crying at that time. When he asked her, she said that the accused was teaching Mathematics on the board and told them to keep writing in their notebooks. While she was writing, he came up to her and asked if she could do the Mathematics and pressed her breasts. Then he called the accused and asked about the incident, but the accused did not answer him and disconnected the call. Then he went to the Gaonbura's house and told him everything. Later, the Gaonbura and other villagers came to his house. On the same day, he filed the ejahar as per their advice. Exhibit P-1 is the ejahar. When he called the accused, he made a recording of their conversation. He transferred the recording from his mobile phone to a pen drive and submitted it to the police, who seized the same. Exhibit P-3 is the seizure list of the pen drive. He gave a certificate for transferring the recording of their conversation from his mobile phone to the pen drive. Exhibit P-4 is the certificate under Section 65-B of the Evidence Act, and Material Exhibit-2 is the said pen drive.

9. In his cross-examination, he stated that it is true that he had not

mentioned the date, time, and place of occurrence in his ejahar. He denied the suggestion that his daughter did not tell him where and when the incident had taken place. He denied the suggestion that he had falsely stated in his ejahar that the accused had sexually assaulted his daughter and touched her genitals deeply only to falsely implicate the accused in the case. He further denied the suggestion that his daughter had never told him that the accused had sexually assaulted her and touched her genitals deeply.

He denied the suggestion that, when the accused came to see whether his daughter had been able to do the Mathematics on the board or not and found that she had not done the Mathematics, the accused merely yelled at her in front of two girls and two boys, due to which she became embarrassed, cried, and went to the bathroom to wash her face. He denied the suggestion that the accused had not done any wrong to his daughter and that he had falsely alleged that the accused had touched her breasts.

He stated that he knows Debojit Das of his village. He had taken Rs. 15,000/- from him and mortgaged his land. Before mortgaging the land to Debojit Das, the land had been mortgaged to Papu Gogoi. About 3 to 4 years ago, he had taken money from the accused and mortgaged the said land to him, and the accused has been cultivating the said land since then.

He denied the suggestion that there was a dispute between him and the accused regarding the withdrawal of the mortgaged land and that he had filed this false case against the accused on that ground. He further denied the suggestion that there had been no conversation between him and the accused over the mobile phone and that he had handed over the pen drive to the police as part of his conspiracy.

10. PW-2 is the victim and she deposed that the accused is the Headmaster of her school. The accused teaches them Mathematics. On the day of the incident, the accused taught them Mathematics on the board and asked them to write it in their notebooks. The accused came to her and checked whether she could solve the Mathematics problem or not. She was sitting with her head down as she did not know the subtraction well. When the accused came near her and wanted to tap her on the back, she straightened up, whereupon the accused squeezed her breasts. Thereafter, she went to the bathroom saying that she had to urinate. When she returned to the classroom from the bathroom, her friends noticed that she was upset and asked her what had happened. However, the accused told them that nothing had happened and asked her to go home. The school was over at that time.

While one of her friends was closing the window, the accused slightly opened

the window and, seeing her upset, told her, *"I will not do it from today. Go."*

Seeing that she was going home alone, the accused sent her sister, who was studying in the same school, to accompany her. After reaching home, she first told her mother and grandmother about the incident, and they informed her father. Thereafter, her father took her to the police station to lodge the case. She gave her statement before the Court. Ext. P5 is her statement recorded under Section 164 Cr.P.C.

At the time of the incident, Indusmita Das and Bismita Das were sitting on the same bench with her. After she returned from the bathroom, they noticed that she was upset and asked her what had happened. However, before she could tell them, the accused told them that nothing had happened and asked them to go. Later, on the way home, when they again asked her what had happened, she told them that she had pain in her chest because the accused had squeezed her breasts and caused injuries to them.

11. During cross-examination, she stated that Drupad Das and Hemanta Das were sitting on the bench behind her. As she did not know subtraction well, she could not write the answer in her notebook. Although the accused came to her and taught her Mathematics, she was still unable to solve the problem. Thereafter, the accused became angry, and she was afraid whenever he got

angry.

She denied the suggestion that, because the accused had become angry with her, she felt ashamed and humiliated in the presence of Indusmita Das, Bismita Das, Drupad Das, and Hemanta Das, and therefore falsely implicated the accused when she returned home. She further stated that the other students were also unable to solve the Mathematics problem.

She also denied the suggestion that she went to the bathroom and cried out of anger and sadness because the accused had scolded her for not being able to solve the Mathematics problem.

She admitted that she had not stated before the police that "when the accused came near her and tapped her on the back, she straightened up."

12. PW-3 is the mother of the victim. She deposed that the accused is the Headmaster of her daughter's school. When she asked her why she was crying, she told her that the accused was teaching subtraction on the board and when she able to do the Maths, the accused came near to her and squeezed her breasts. They were in a situation of what to do or not to do. At that time, her husband was playing carrom outside. She did not tell her husband about the incident at first as she thought he would be angry. Her mother-in-law called her husband home and told him about the incident. Then her husband called the

accused and when asked about the incident, he confessed the same and told him not to make any noise and that it would be managed. Later, the Gaonburah and other villagers came to their house and they filed the ejahar as per their advice.

In cross-examination, she stated that Indusmita Das and Bismita Das are the classmates of her daughter and were sitting on the same bench on the day of the incident. Her daughter complained to her of having chest pain for 4-5 days before the incident. After her daughter told her about the incident on the day of the incident, she asked her two girl friends and they said that her daughter had chest pain and was crying.

13. PW-4 is the grandmother of the victim. She deposed that the accused is the Headmaster of the school where her granddaughter is studying. On the day of the incident, she, her daughter-in-law, and younger granddaughter were at home. At that time, the victim came home crying. When she asked her why she was crying, she told her that the accused had squeezed her breasts. She further added that the accused had also squeezed her breasts 3 days ago. She had chest pain. She didn't tell them out of fear. But on the day of the incident, when the accused squeezed her breasts again, she came crying and told them

everything. At that time, her son was playing carrom outside. She called him and told him about the incident. Before she could tell, her youngest granddaughter Tanya Das told her father about the incident but he did not pay much attention as she was a young girl. Later, when she told him, he immediately called the accused in anger. The accused told him not to make any noise and said he would manage. Later, Gaonburah and other villagers came on their advice.

In cross-examination, she stated that after the victim told them about the incident, they asked her friends Indusmita Das and Bismita Das and they said they did not know anything. It is true that she did not tell the police that the accused had also squeezed her breasts 3 days ago.

14. PW5 and PW6 are Indusmita Das and Bismita Das. They deposed that they and the victim have studied together in the school. The accused is the Headmaster of their school. There are 5 students in their class: PW5, PW6, Dhruvad, Hemanta, and the victim. PW5 sat in the middle. The victim sat on her left and PW6 on her right. They were seated on the first bench. On the day of the incident, the accused asked them to do subtraction. They were doing Maths by keeping their heads down. Once, in the middle, the accused came and asked

if they could do the Maths. They said they couldn't. After a while, the victim went outside to wash her face. She came back to the class crying and wiped her face with a handkerchief. When they asked her why she was crying, she said nothing. The accused was sitting in his seat looking at a book. Later, school was over. On the way home, after a little distance from the school, the victim started crying again. Then they asked her but she didn't say anything. PW6 further stated that after school, the victim was sad and went ahead of them. She and PW-5 ran to meet her and when they asked her what happened, she said she had chest pain.

Cross examination of both the witnesses were declined by the defence.

15. PW-7 is the Assistant teacher of the school where the incident took place. He deposed that the accused is the Headmaster of his school. There are two teachers in their school. The accused is the Headmaster and he is the Assistant Teacher. Their school house has two parts. One part teaches classes from A to III and the other part has classes from IV to V as well as school offices. He was in the school on the day of the incident. On the day of the incident, the accused was teaching in the part of class IV and V and he was teaching in the other part. His house is near to the accused's house. In the evening of the incident, the informant came to the house of the accused and, hearing him making some

noise with the wife of the accused in their yard, he came forward and then the informant told him that the accused had mistreated his daughter at the school that day. He did not ask him what wrong the accused had done because the informant told him that the accused had mistreated his daughter at the school that day and that he (PW-7) did not know anything about the incident and asked him to leave. Next day he went to the school and asked Bismita and Indusmita what had happened and then they said they did not know anything. Next day the victim did not come to school. After some days, when he asked the victim she told him that on the day of the incident the accused had touched her body. The parents of the victim told him that the victim was mentally disturbed and forbade him to ask her more about the incident.

In cross-examination, he stated that he has no personal knowledge about the incident. It is true that he told the police that the victim has not said anything about the incident to him. It is true that the relationship between the accused and the informant is not good over the mortgage of land. He thinks nothing had happened and therefore he knew nothing of the day of the incident.

16. PW-8 is the paternal uncle of the victim. He deposed that the victim is his nephew. At the time of the incident, they were living in the same house. The

accused is the Headmaster of a school near to them. On the day of the incident, at about 2 PM, when he came home he saw the victim was crying. Two of her friends and their mothers were in their home with the victim. Later, his sister-in-law told him that the accused touched the breasts of the victim in the classroom and therefore she was crying. He then asked the victim and she told him a similar incident and added that earlier also the accused had touched her breasts once. Later the informant called the accused and filed the case.

In cross-examination, he stated that he has no personal knowledge about the incident. He first asked his mother why the victim was crying and his mother told him that nothing had happened.

17. PW-9 is the M.O. who examined the victim on 28.09.2023 but did not find anything incriminating.

18. PW-10 is the investigating officer who received the ejahar on 27.09.2023 and started the investigation on the basis of the GD entry. She recorded the statement of the witnesses and prepared the sketch map. The place of occurrence is the class IV classroom of L.P. School. On 29.09.2023 the accused had surrendered at the P.S. She had seized the birth certificate of the victim. On 24.10.2023 the informant had handed over one pen drive to her. The pen drive contained the recording of telephonic conversation between the accused and

the informant. In the telephonic conversation, the accused admitted the incident and said he would manage it. She seized the pen drive. After completion of investigation she submitted charge sheet against the accused person u/s 354/354(A) IPC r/w Section 10 of the POCSO Act. She seized the birth certificate of the victim. Ext. P2 is the seizure list. Ext.P7 is the sketch map and Ext. P8 is the charge sheet.

In cross examination she stated that she has not submitted the extract copy of the GD entry before the court but it is with the CD. She has also not questioned the Gaonburah or other members of the Panchayat or Drupad Das and Hemanta Das studying together with the victim. The incident took place on 27.09.2023. She further admitted that in Ext. P3, she mentioned the date as 24.09.2023 instead of 24.10.2023 and that according to the Ext. P3, the pen drive was seized before the incident. She did not send the pen drive to the FSL.

19. Mr. S. Borthakur, learned Senior Counsel for the appellant, submitted that the classmates of the victim, who were sitting with her on the same bench while the class was going on, and when the alleged incident took place, did not implicate the accused or corroborate the version of the victim. Referring to the evidence of PW-4, the grandmother of the victim, it is pointed out that she also stated in her examination-in-chief that when they asked the friends of the victim

about the incident, they stated that they did not know anything.

20. Moreover, PW-1 had also stated that when he had asked his wife, i.e. PW-3, as to why the victim was crying, his wife had only stated that the accused had misbehaved with her. Furthermore, in his cross-examination, PW-1 admitted that he had given a piece of land on mortgage to the accused, in return for which he had taken Rs. 15,000/- from the accused, and it was suggested to PW-1 that there was a dispute with regard to the aforesaid mortgage, because of which PW-1, the informant, had falsely implicated the accused/appellant. Moreover, the evidence of PW-7, who is an independent witness, would also show that the version of the prosecutrix is not true. Lastly, it is submitted that according to the I.O., he had seized the pen drive containing a recorded conversation between the informant and the accused on 24.09.2023, whereas the FIR was registered on 27.09.2023. Therefore, the question posed by the learned Senior Counsel is as to how the I.O. could have seized the said pen drive (M.O.-2) even before the registration of the FIR.

21. Learned Addl. Public Prosecutor and learned counsel representing the informant submitted that the evidence of PW-2, the victim, has withstood cross-examination and, moreover, the same is corroborated by her statement before the Magistrate recorded under Section 164 Cr.P.C., and on the basis of the said

evidence itself, the conviction can be sustained. Merely because PWs-5 and 6, who were her classmates, did not see the incident does not imply that the same did not take place, as their attention was focused on their books. Moreover, PWs-5 and 6 deposed to the fact that the victim was crying when she returned from the washroom. Although PW-1, the father had stated that his wife (PW-3) had told him that the appellant 'misbehaved' with their daughter, the same does not contradict the victim's version, as the alleged act can very well be described as 'misbehavior'.

22. It is further submitted that the version of the victim has been consistent throughout and has been corroborated by PW-4, who is her grandmother, as well as PW-3, who is her mother, to whom the victim had immediately reported the matter upon her return from school. Furthermore, merely because the father of the victim/informant had mortgaged a piece of land to the accused in consideration of a sum of money does not prove that there existed any prior enmity between them, which should impel the informant to falsely implicate the accused appellant.

23. I find sufficient force in the submissions of the learned Public Prosecutor and learned counsel for the informant. However, the prosecution has not addressed one issue raised on behalf of the appellant, namely, with regard to

the pen drive that has been exhibited as Material Exhibit 2 during the trial. PW-1, the informant, stated in his evidence that when he came to learn of the incident from his wife, he had called up the accused and asked about the incident, but the accused did not answer him and disconnected the call, whereafter he went to the Gaonbura's house and told him everything, and later, on the same day, i.e., 27.09.2023, he lodged the ejahar. He exhibited the seizure list in respect of the pen drive as Exhibit P-3. He also exhibited a certificate under Section 65-B of the Evidence Act as Exhibit P-4. During cross-examination, he denied the defence suggestion that there was no conversation between him and the accused on the mobile phone.

24. A perusal of Exhibit P-3, the seizure list in respect of the aforesaid pen drive, shows the date and time of seizure as 24.09.2023 at 5:10 p.m., which is three days prior to the date of the alleged incident and lodging of the FIR, i.e., 27.09.2023. The I.O. in her evidence has stated that on **24.10.2023**, which was a month after the date of occurrence, the informant had handed over one pen drive to her. During cross-examination, she reiterated that the incident took place on 27.09.2023 although the date 24.09.2023 is recorded in the seizure list, which was prior to the incident. Moreover, in the Ext-4 certificate issued by the informant under Section 65B of the Evidence Act, it is clearly mentioned that the date and time of recording of the conversation is 27.09.2023 at 3:31 p.m. The

Case Diary itself commences from 27.09.2023. From the above, it is clear that the date was mistakenly written as 24.09.2023 in the seizure list.

25. It is further pointed out by the learned Senior Counsel for the appellant that in the FIR itself, the informant, despite coming to know of the specifics of the alleged act committed upon his daughter, nowhere stated that the accused person had touched or pressed the breasts of the victim. What he stated is that the accused had touched the "guptanga", i.e., the private part of the victim, which would ordinarily indicate the genital area. It appears to be quite inexplicable as to why, instead of stating that the accused had pressed the breasts of the victim, the informant stated that the accused had touched her genital area.

26. In ***Amar Nath Jha v. Nand Kishore Singh, (2018) 9 SCC 137***, relied upon by the appellant, the Hon'ble Apex Court held that although the FIR need not be an encyclopedia of the crime, the absence of certain essential facts points towards the suspicion that the crime itself may be staged. Similarly, in ***B.N. John v. State of Uttar Pradesh & Anr., 2025 LiveLaw (SC) 4***, the Hon'ble Apex Court held that the absence of mention of the alleged acts constituting the ingredients of the offence under Section 353 IPC renders the FIR legally untenable, insofar as the said offence is concerned.

27. In the present case, however, the essential facts constituting the offence of sexual assault have been mentioned in the FIR. There is no contradiction therein as regards the time, place or circumstances of the occurrence. The only divergence is with regard to part of the body of the victim upon which the assault was made. The informant is himself not an eye witness to the occurrence. In my considered opinion, though there may be some embellishment in the version of the informant in the FIR, the same is not sufficient to dislodge the prosecution case, which has otherwise been proved beyond reasonable doubt.

28. In view of the above, this appeal fails. The impugned judgment of conviction and sentence stands affirmed and the appeal stands dismissed.

JUDGE

Comparing Assistant