

GAHC010262422024



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

Case No. : I.A.(Crl.)/1245/2024

RANJAN BORUAH
S/O SRI SACHINDRA BARUAH,
RESIDENT OF JATIA UJJAL NAGAR, GANESHGURI, PS DISPUR, DIST
KAMRUP M ASSAM

VERSUS

STATE OF ASSAM AND ANR
REPRESENTED BY PP ASSAM

2:MAMTA BEGUM
W/O RAHIM UDDIN

RESIDENT OF VILLAGE CHOTE LENGRI
PS DILLAI
DIST KARBI ANGLONG
ASSA

Advocate for the Petitioner : MR D TALUKDAR, MS B GOSWAMI,MR P CHOUDHURY,MS P
SAIKIA

Advocate for the Respondent : PP, ASSAM, MR. A M DUTTA, AMICUS CURIAE (R-2)

Linked Case : **Crl.A./425/2024**

RANJAN BORUAH
S/O SRI SACHINDRA BARUAH
RESIDENT OF JATIA UJJAL NAGAR

GANESHGURI
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ASSAM

Advocate for : MR D TALUKDAR
Advocate for : PP
ASSAM appearing for STATE OF ASSAM AND ANR

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MR. JUSTICE RAJESH MAZUMDAR

ORDER

24.06.2026

(Michael Zothankhuma, J)

Heard Mr. D. Talukdar, learned Senior Counsel for the applicant/appellant.
Also heard Mr. R.R. Kaushik, learned Addl. Public Prosecutor and Mr. A.M. Datta
for the respondent No. 2.

2. The applicant has prayed for suspending the sentence to be undergone by
the applicant pursuant to his conviction under Section 376(2)(f)/458 IPC by the
learned District & Sessions Judge, Karbi Anglong, Diphu in Sessions Case No.

134/2015.

3. The applicant's counsel submits the evidence of the mother of the victim shows that she was sleeping with her children when she was woken up, on hearing her daughter making a hue and cry. She then saw the applicant going out of their room and her daughter told her that the said applicant had raped her. However, the medical report and evidence of the Doctor only speaks of there being a small tear in the fourchette while the hymen was intact and there was no spermatozoa seen in the vaginal swab. Further, there was no evidence of sexual intercourse within 72 hours, though the medical examination of the victim was suggestive of manipulation of genitalia.

4. Mr. R.R. Kaushik, learned Addl. Public Prosecutor on the other hand submits that the tear on the fourchette does not prove that no rape had been committed on the victim. Further, there are many families in India who are living in single rooms and it cannot be said that just because the family slept in one room, a minor girl could not be raped.

5. Mr. A.M. Datta, learned Amicus Curiae reiterates the submission made by the learned Addl. Public Prosecutor.

6. On considering the evidence of the victim girl and keeping in view the Doctor's opinion that the medical examination of the victim was suggestive of manipulation of her genitalia, we are of the view that the application should not

be allowed at this stage.

7. Accordingly, the application is rejected.

JUDGE

JUDGE

Comparing Assistant