

GAHC030004462021



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

Case No. : CrI.A./19/2021

Joseph Lalhrietzing
S/o Vansangrem (L)
R/o Hmarkhawlian
Cachar District
Assam

VERSUS

State of Mizoram and Anr.
Aizawl
Mizoram

2:Joseph Laltanpuia
S/o Lalchuangliana(L)
R/o Chaltlang Venglai
Aizawl

Advocate for the Petitioner : Mr A.R. Malhotra
Advocate for the Respondent :

Linked Case : I.A.(CrI.)/23/2021

Joseph Lalhrietzing
S/o Vansangrem (L)
R/o Hmarkhawlian,
Cachar District, Assam

VERSUS

State of Mizoram and Anr.
Aizawl, Mizoram 2:Joseph Laltanpuia
S/o Lalchuangliana (L)
R/o Chaltlang Venglai

Aizaw

Advocate for the Petitioner : Mr A.R. Malhotra

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO
ORDER**

Date : 08.12.2021

Heard Mr. A.R. Malhotra, learned counsel for the appellant, who submits that the appellant being aggrieved with the Judgment & Order dated 15.11.2021 passed by the Presiding Officer, Fast Track Special Court (Rape & POCSO Act) in SC No. 61/2017, convicting the appellant under Section 10 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) has filed the instant appeal. The learned counsel also submits that by the same judgment and order, the appellant was sentenced to Rigorous Imprisonment for a period of 5 (five) years and to pay a fine of Rs. 5,000/-, with a default clause. The same is also under challenge by the appellant.

The learned counsel submits that one of the main grounds for challenging the impugned judgment and order is that, the appellant was convicted solely on the basis of the statements alleged to have been made by the victim before the team member of the child-line and also before the case Investigating Officer. He further submits that the evidence of the victim also contradicts her statement before the case I.O. and the Magistrate.

In view of above, let the appeal be admitted.

Call for the LCR.

Issue notice to the respondent No. 1 only returnable by four weeks.

Mrs. Linda L. Fambawl, learned Additional Public Prosecutor accepts

notice on behalf of the respondent No. 1. As such, no formal notice will be required. In respect of respondent No. 2, who is the complainant, notice is dispensed with in view of the Judgment & Order dated 27.01.2021 passed by the Division Bench of this Court in Criminal Appeal No. 205/2018 (*Sh. Bormoty Panggeng Vs. State of Arunachal Pradesh & Anr.*).

List the matter again after Winter Vacation.

JUDGE

Comparing Assistant