

GAHC040002722022

2026:GAU-AP:10



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

CRIMINAL APPEAL (AP) 07/2022

Arbindo Mandal
S/O- Jagabandhu Mandal
Vill, PO/PS- Silapatar,
Dist- Dhemaji, Assam

----- **Petitioner.**

– *VERSUS* –

1. The State of Arunachal Pradesh.
2. XYZ

----- **Respondents**

BEFORE
HON'BLE MR. JUSTICE PRANJAL DAS

Advocated for petitioner :

Mr. T. Tapak, Advocate

Advocate for Respondent :

Ms. L. Hage, learned Addl.P.P.(AP)

Mr. M. Boje, advocate

Date of hearing: 07.11.2025

Date of judgment:07.01.2026

JUDGMENT & ORDER (CAV)

1. Heard Mr. T. Tapak, learned counsel for the appellant. Also heard Ms. L. Hage, learned Additional Public Prosecutor for respondent No.1 and Mr. M. Boje, learned Amicus Curiae appearing for respondent No.2.
2. The prosecution case in brief is that on 29-04-2014, in the evening, an FIR was lodged by one Smti Reena Dutta against the accused Arbindo Mandal with the allegations that the accused has been sexually assaulting his 14-year-old daughter since the last one year. And whenever she used to refuse his said advances, the accused used to also physically assault her. And out of fear, the victim was unable to disclose the matter earlier. On the basis of the FIR, Pasighat PS No. 29 of 2014 was registered under Section 376(2)(f)(i) IPC read with Section 6 of the POCSO Act 2012. Upon completion of investigation, the IO laid charge sheet against the accused under the aforesaid sections.
3. After taking cognizance and necessary formalities, charges were framed against the accused by the learned Trial Court under Section 6 of the POCSO Act 2012 read with Section 376(2)(f)(i) IPC. The charge being denied by the accused led to commencement of the trial. During the trial, the prosecution side examined 12 witnesses including the informant victim, IO and medical officer. After completion of the prosecution evidence, the accused was examined under Section 313 Cr.P.C. Thereafter, two witnesses were adduced from the side of the accused and they were cross-examined by the prosecution.
4. After completion of the trial, the Learned Trial Court by judgment dated 16-12-2021 convicted the accused under Section 376(2)(f)(i) IPC read with Section 6 of the POCSO Act. For his conviction under the aforesaid penal

provisions, he was sentenced to undergo rigorous imprisonment for 10 years and fine of Rs. 5,000/- in default directed to undergo simple imprisonment for 3 (three) months.

5. Aggrieved by the said conviction and sentence, the convict appellant has preferred the instant appeal before this court.

6. The respondent No.1/State is represented by the Learned Public Prosecutor. Upon being noticed, the respondent No.2/informant is represented by Mr. M. Boje, learned Amicus Curiae.

7. The original case record was called for and received. A paper book has also been prepared and placed before the court for convenience of adjudication of the matter.

8. The Learned Counsel for the convict appellant submits that the prosecution case suffers from several infirmities and was not convincingly proved before the learned trial court. That, there are contradictions in the testimony of PW-2 and with regard to the place of occurrence as well there are contradictions. It is submitted that some important witnesses were not examined by the prosecution.

9. It is submitted that the prosecution evidence gave rise to two views. Therefore, benefit should have been given to the convict appellant. It is submitted that the victim girl herself in her statement and deposition stated about dependency of her siblings on her father. It is submitted that the victim has improved her statement in her testimony.

10. The learned counsel for the convict appellant submits that the accused was falsely implicated by the victim girl at the behest of her boyfriend and that the testimony of the victim girl is not wholly reliable.

11. On the other hand, the learned Public Prosecutor submits that the testimony of the victim girl is consistent and has been also corroborated by other prosecution witnesses. The family members have also corroborated her testimony, all of which have remained unshaken in cross-examination. It is further submitted that there is no infirmity in the impugned judgment and that the appeal is liable to be dismissed.

12. The learned counsel for the informant supporting the contentions of the prosecution further submits that there is no improvement in the testimony of the victim girl and that her demeanour recorded by the learned trial court during the trial has a significant bearing on her testimony. It is further submitted that the learned trial court has rightly convicted and sentenced the accused person for his heinous offence of committing rape upon his own daughter and that the said judgment should be upheld and confirmed.

13. I have perused the appeal memo, the impugned judgment and order, the depositions available on record, the exhibited documents, the examination of the convict appellant under section 313 Cr.P.C. and other relevant documents. I have considered the submissions of the appellant side as well as of the prosecution.

14. During the trial, the alleged victim girl, Prosecutrix, adduced evidence as PW-9. In her testimony, she stated that she has identified the accused as her father, that, she left her school in 2014 because of the incident and at the time of deposition she had joined a school at Laluk in class VII. She further testified that at the time of the offence, she was appearing in her examination, but she could not appear in science and arts paper due to the incident.

15. She testified that she does not remember the exact date but the incident occurred in the year 2014 more than 2-3 times, whereupon her father, the

accused, subjected her to rape on several occasions. Elaborating further, PW-9 testified that one day when her stepmother went to attend the marriage party of her maternal uncle, she along with her younger sister was in her home and that night, accused asked them to sleep in his room and accordingly, when they were sleeping with the accused, the accused who was sleeping between the Prosecutrix and her younger sister made the Prosecutrix hold his penis and after some time, the accused despite her resistance inserted his penis into her private parts and when she cried out of pain, he left her. Testifying further, PW-9 stated that her sister who was on the other side of the same bed could not have heard her voice and even if she heard, being a minor, could not understand the happening.

16. Testifying further, PW-9 stated that initially, she could not understand what was happening but when she felt pain in her private part due to insertion of the penis, she realized that her father was committing sexual intercourse with her. She further stated that her father used to beat her on flimsy grounds and therefore out of fear, she could not disclose about the incident to anybody. PW-9 further testified that after a few days, one day while she was sleeping on the floor of the drawing room, her father again committed sexual intercourse upon her by penetrating his penis into her private part and that on that night also she could not shout for help out of fear of her father who also forcefully made her to swear not to disclose the incident to anybody till her death.

17. PW-9 further testified that as and when she refused to cooperate with her father in such sexual activity, he used to torture her and that the accused, her father continued to rape her in his shop on holidays of the school. PW-9 stated that her mother died when she was 2 years old and that the present mother is a stepmother but that she is good to her. PW-9 further testified that one day

when the matter went beyond her tolerance, she narrated the incident to her paternal grandmother, paternal aunt and also to her stepmother.

18. She further narrated the incident to one Champa Roy who promised to protect her from the said harassment and thereafter one Reena aunty came to her house to enquire about the matter and accordingly she narrated the incident to her also; whereupon, the said Reena aunt took her to her house and asked her to stay there till she discussed the matter with her father. Subsequently, they informed the matter to the police.

19. PW-9 stated that at the time of her deposition, she was staying with her maternal grandmother. She further stated in her examination-in-chief that as her father is looking after her younger sister and brother, she does not pray for any sort of punishment, but whatever he did with her was completely bad. The learned trial court has recorded the demeanor of the witness at the time of examination stating that the victim was crying while deposing.

20. In **cross-examination**, PW-9 stated that she was loving one Monu Mondal since 6 months before the incident but they had not met each other and that in order to get rid of the harassment she was suffering, she was planning to elope with him and Champa Roy was also helping them for that and that her father was not aware of her plan. In **cross-examination**, she reiterated that though she does not remember the exact date but the offence was committed for the first time in 2014 and that at the time of the first offence she was with her younger sister and it was night though she does not remember the exact time.

21. During investigation, the statement of the prosecutrix was recorded before learned Judicial Magistrate at the behest of the IO. In her statement, the

prosecutrix stated that it was hot in the evening and her father told them that they were sleeping in the veranda and when they were asleep, her father, the accused, tried to make sexual advances towards her which she resisted and that at that time her stepmother was out of station at Nagaon. Stating further, PW-9 stated in her said statement before learned Judicial Magistrate that her father assaulted her physically several times at home and also in the furniture shop and used to call her in the furniture shop and assault her sexually; that, fearing him, she did not tell this to anybody because he used to physically torture her and beat her up. Eventually she told her grandma and also to her aunt and her aunt assured her that she will convince her father not to do this but her father did not listen to anybody. She further stated in her statement that the news regarding the incident spread like wildfire and the neighbours also tried to talk to her father but he did not listen to anyone and thereafter the neighbours reported the matter to the police and her father was taken into custody. At the end of the statement, the victim stated that she wanted to forgive her father and want him released from jail because there are two younger siblings and there will be no one to take care of them.

22. After perusing the testimony of the victim and her statement recorded before learned Judicial Magistrate during investigation, I find that there is mutual talling and corroboration between the two narrations. In her statement recorded before learned Judicial Magistrate also, the victim has stated about repeated sexual assault upon her by her own father and her not divulging about the same due to fear of being beaten and tortured which he used to do in any case. In her deposition before the court as PW-9 also, the victim has stated about how the sexual assault began one night when she was sleeping with her father along with her younger sister and her father tried to sexually assault her

despite her resistance. Her testimony is cogent about the act of her father in inserting his penis into her private part causing her pain.

23. The testimony reveals that on multiple occasions since beginning of the incident in 2014 she was subjected to such rape and sexual assault. The testimony of the prosecutrix has remained unshaken in **cross-examination** with regard to the allegations about sexual assault.

24. During the trial, the medical officer who examined the victim girl after the incident deposed as PW 11 being Dr. K. Tayeng. He has stated *interalia* that hymen was torn posteriorly and there was no evidence of recent tear or injury. On the basis of radiological examination of teeth, elbow and knee joints, was found that at the time of examination of the girl in 2014, she was aged about 14 to 16 years. He also opined that the girl was habituated with sexual intercourse and there were no injuries in and around her private parts. He proved the medical report as Exhibit 4 and his signature as Exhibit-4(A). The finding of the doctor about old tear in the hymen and medical evidence regarding the victim being habituated to sexual intercourse assumes importance and in a way lends corroboration to her allegations in her statement during investigation as well as in her deposition during the trial about being subjected to sexual assault, including sexual intercourse by her own father.

25. In her testimony, PW-9, the victim girl has stated about reporting and narrating about the incident to her paternal grandmother, paternal aunt, her stepmother and also to Champa Roy and Reena Aunty. The maternal grandmother of the victim, namely, Mr. N Biswas testified as PW 8 in which she stated about hearing from the villagers about the rape case and that after the arrest of the accused, her son-in-law, the victim told her that she was subjected to rape by the accused.

26. One Nayantara Biswas stated to be the neighbour of the accused deposed as PW 5 in which she has stated about the victim telling her that she was subjected to rape by her father and thereafter, she accompanied the victim to the police station for lodging complaint and that there were other women also who were present. In **cross-examination**, she clarified that she had heard about the incident from the mouth of the victim.

27. As already stated, the victim has stated about narrating the incident to one Champa Roy and the said Champa Roy has adduced evidence during the trial as PW 4 in which she has confirmed that one day the victim told her that she was continuously subjected to rape by her father on many occasions. She further testified that the victim also told her that her stepmother, Tulu Rani went to Assam for such behavior of her father. PW 4 testified that the victim also told her that she had narrated about the incident to Reena Dutta also.

28. Subsequently, upon telling by the said Reena Dutta, PW 4 went to the house of the accused whereupon he got angry and was searching for a dao and so out of fear she left his house and thereafter they went to the police station to lodge the FIR. In **cross-examination**, she has admitted that she has not personally seen the commission of the offence. Thus, the statement of the victim in her testimony about reporting the incident to Champa Roy finds confirmation and corroboration from the testimony of the said Champa Roy.

29. One aspect of her testimony assumes importance in as much as she stated that when she went to the house of the accused to ask about the incident, he got angry and started looking for a dao whereupon she got scared and left. This part of the testimony regarding the conduct of the accused also goes against him.

30. The aforementioned Reena Dutta has also adduced evidence as PW 3 and she also happens to be the informant of the case. She proved the FIR as Exhibit 1 and her signature thereon as Exhibit 1(A). It is important to note that the informant PW 3 is also the neighbour of the accused. She testified that on 27th April 2015, the victim told her that she was repeatedly subjected to rape by her father since last one year; whereupon, PW 3 informed the matter to Maya Singh, sister of the accused and Tulu Rani, wife of the accused. That, they said that though they know about the same but could not initiate against the accused and asked PW 3 to talk with the accused. Subsequently, when PW 3 met the accused and asked about it, he denied the same, where after she went to the police station and lodged the FIR. After the incident, in **cross-examination**, PW 3 testified that after the arrest, she kept the victim with her for some days and that as caretaker of the victim, he engaged her in one school on temporary basis. She clarified in **cross-examination** that though the FIR was drafted by a police officer but she put her signature after the contents were explained to her. Thus, I find that the testimony of the informant corroborates the testimony of the victim about reporting the incident to the said PW 3.

31. This is similar to the confirmation by PW 4 Champa Roy as discussed earlier about being reported about the incident by the victim as testified to by the victim herself in her testimony as PW 9. Tulu Mandal, wife of the accused and step-mother of the victim also testified as PW 1. However, her testimony is not very significant as she has merely stated that she came to know about the arrest of her husband on the allegation of commission of rape upon his own daughter.

32. Maya Singh, the sister of the accused became hostile during examination and upon **cross-examination** by the prosecution, denied that the victim

reported to her about the incident. Subha Rani Mandal, the younger sister of the accused also turned hostile while deposing as PW 6. She mentioned about one affair between the victim and a boy named Monu and in **cross-examination** by prosecution stated upon family meeting regarding the same and that subsequently the present case was lodged against the accused. He repeated the same in **cross-examination** by defence.

33. One Pawan Mandal, another brother of the accused also stated that his elder sister Subha Rani and Champa Roy came to her place and informed him about the victim and Monu Mandal who wanted to get married; whereupon he suggested that she should continue with her studies and refused the proposal. Subsequently he came to know about the allegation of rape upon his own daughter leveled against the accused.

34. During his examination under 313 Cr.P.C., a specific question was put from the deposition of PW 9 that when her stepmother was away, the accused asked her and her sister to sleep with him and in night he asked her, the victim to hold his penis and after sometime inserted his penis into her private part but as she cried out of pain, he had to leave her. In answer to this question, the accused did not deny and merely stated that he does not know anything about the same.

35. The younger sister of the victim has adduced evidence as DW 1 in which she has denied allegations that her father committed rape upon her elder sister and she has also stated about the plans of the victim to elope with some boy for which her father had beaten her. The other defence witness, adducing evidence as DW 2 is hardly of much significance as he has merely stated about hearing from the accused that he has been alleged of committing rape on his own daughter.

36. Though an attempt was made from the side of the defence during the trial to bring in an angle of false implication with regard to a supposed affair of the victim with one boy but in my considered opinion, the said attempt has been a faint one and has not been able to make any dent in the prosecution case.

37. Interestingly, the IO in his examination as PW 10 stated in **cross-examination** that during the course of his investigation, he has not found any boyfriend of the victim. He has proved the charge-sheet as Exhibit 2 and his signatures thereon as Exhibit 2A and Exhibit 2B. With regard to the aspect of her love affair, rather it has emerged from her testimony that to escape the situation, she was planning to elope with one boy whom she loved but whom she had not met and that Champa Roy was trying to help her with regard to that and that her father was not aware of the same. Upon perusing the entire prosecution evidence and appreciating the same and also appreciating the defence evidence, I find that the testimony of the prosecutrix during the trial has been cogent with regard to the continued sexual assault upon her by her father starting from 2014.

38. Interestingly, in her statement recorded before learned Judicial Magistrate also during investigation, she has stated about such sexual assault by her own father and the continued sexual assault and in both her testimony during the trial and her statement before magistrate, she has stated about not being able to divulge about the same due to the fear of assault by her father who used to assault and beat her in any case on regular basis. The finding of the doctor about absent hymen and the victim being used to sexual intercourse lends further corroboration. The victim has testified about reporting about the incident to Reena Dutta, the informant, Champa Roy, neighbour and some relatives.

39. Her maternal grandmother has corroborated her such narration and

reporting about being raped by her own father since last one year. The informant Reena Dutta testifying as PW3 and the said Champa Roy testifying as PW4 have also confirmed and corroborated the reporting of the reporting by the victim about being continually subjected to sexual assault and rape since 2014.

40. The demeanour of the witness/victim recorded by the Learned Trial Court during deposition as mentioned by the Learned Trial Court – also lends support to the veracity of her deposition. It may be mentioned here that as already stated earlier, the victim was stated to be crying during the deposition.

41. The attempt of the defence to bring about an element of false implication due to alleged love affair of the victim is a feeble attempt to demolish the prosecution case and in my considered opinion, the aspect of false implication does not have sufficient legs to stand; rather that aspect has lent support to the story revealed by the victim about trying to escape the terrible situation of sexual abuse by trying to elope with one boy whom she had loved but whom she had never met and one Champa Roy PW4 was also assisting her in that to help her escape that situation.

42. In my considered view, the Learned Trial Court has not committed any error in coming to the considered finding that the accused was guilty of committing rape upon his own daughter on multiple occasions starting in 2014.

43. The Learned Trial Court, convicted the accused under Section 6 of the POCSO Act 2012 r/w Section 376(f) IPC.

44. **The conviction of the appellant is hereby upheld and confirmed.**

40. With regard to the sentence, considering the heinous nature of the offence wherein the convict appellant committed sustained rape upon his own daughter, there is no scope whatsoever in my considered opinion to make any

modification on the lower side.

45. Accordingly, the sentence imposed by the Learned Trial Court is also upheld and confirmed.

46. Upon perusing the judgment, I do not find any direction for payment of victim compensation. However, considering the fact that the life situation of the victim was extremely adverse - she lost her mother at the age of two years and she has two younger siblings, and she has even stated that her father may be excused as there will be none to look after the siblings, though she stated that what he did with her was very bad.

43. In this extremely unfortunate situation, adequate compensation should be granted to the victim to stabilize her life.

47. Therefore, the victim of this case may be paid a total compensation of Rs. 10 lakhs (Rupees Ten Lakhs) only.

48. The said compensation shall be processed and paid through the office of the Learned Secretary District Legal Services Authority, Pasighat, AP. Out of the awarded compensation amount of Rs. 10 lakhs, a suitable amount shall be kept in a fixed deposit in the name of the victim. *The amount of such fixed deposit shall be decided by the Learned Secretary, DLSA Pasighat, in the wisdom of the said Learned Authority.* For this purpose, a copy of this judgment and order shall be sent to the Learned Secretary, DLSA Pasighat, Arunachal Pradesh. The State shall make available the necessary funds

49. The instant criminal appeal accordingly stands **dismissed** and disposed of on the aforesaid terms.

JUDGE

Comparing Assistant