

**IN THE COURT OF SPECIAL JUDGE (POCSO)**

**NALBARI**

**SPL. (P) CASE NO. 26/2018**

*r/w s. 10 Protection of Children from Sexual Offences Act, 2012*

**State of Assam**

- Vs -

**Chandi Nath** ..... Accused

**Present**

**Smti. Munmun B. Sarma**

Special Judge (POCSO)

Nalbari

**Counsel for** : Sri K K Sarma, Learned Special Public  
**Prosecution** Prosecutor

**Counsel for** : Raju Kumar Najir & Nazrul Haque,  
**Defence** Advocate

**Evidence** : 07/03/2021

**Argument** : 23/04/2021

**Judgment** : 07/05/2021

## **JUDGMENT**

1) On 24/06/2018 informant Maimati Barman lodged an ejarah before the I/C, Doulasal OP, stating inter alia that, on that day at about 1:00 PM, when her niece (hereinafter referred as victim or 'X'), aged 12 years, was coming towards her house, accused Chandi Nath called her niece and took her to his house and hugged her. Her niece gave a blow in the stomach of the accused and came home running. On being asked, victim 'X' told the incident. When informant informed the accused's mother Pratima Haloi, she rebuked the informant and tried to assault her. Hence, this FIR was filed.

2) On receipt of the FIR, Doulasal OP made GDE No 380 dt. 24/06/2018 and the FIR was forwarded to O/C, Mukalmua PS. It was registered as Mukalmua PS Case No. 238/2018 u/s 294/34 Indian Penal Code (hereinafter referred to as IPC) against accused Chandi Nath & his mother Pratima Haloi. The police went to the place of occurrence and examined the available witnesses & their statements recorded. Victim was sent for medical examination but the victim did not give consent for examination. Victim's statement u/s 164 Criminal Procedure Code (hereinafter referred to as CrPC) was duly recorded. On completion of investigation, a prima

facie case having appeared against the accused Chandi Nath, the Investigating Officer (herein after referred to as I/O) submitted charge sheet against him u/s 294 IPC r/w 10 of Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as POCSO Act). As no material appeared against FIR-named co-accused Pratima Haloi, she was not sent-up for trial.

3) Cognizance was taken u/s 294 IPC r/w s.10 POCSO Act, and on receiving summon, the accused Chandi Nath appeared before the court to face trial. Necessary copies were furnished to him. After considering the materials available in the case record and case diary, and prima facie material having appeared u/s 10 POCSO Act, charge was framed and the content of the charge was read-over and explained to the accused Chandi Nath, to which he pleaded not guilty and claimed to be tried.

4) To prove the offence u/s 10 POCSO Act against the accused, the prosecution side examined 2 witnesses, same being, the informant & the victim, and exhibited only 1 document. Prosecution evidence was closed as it was seen that further witnesses cannot help prosecution case. The accused person's case, as could be ascertained from cross-examination of the prosecution witnesses & his statement u/s 313 CrPC, was that of total denial.

5) The **points for determination** is, whether on 24/06/2018 and prior, the accused Chandi Nath repeatedly committed aggravated sexual assault upon the victim 'X', thus committing **offence u/s 10 of POCSO Act?**

**DISCUSSION, DECISION & REASONS THEREOF:**

6) I heard the arguments forwarded by the Ld. Special Public Prosecutor and the Id. counsel for the accused. I have also gone through the materials available in the Case Record & the Case Diary. The charge u/s 10 POCSO Act is analysed herein below, in light of the limited materials available on record and the argument forwarded by both sides.

7) To be convicted u/s 10 POCSO Act it must be proved that the accused Chandi Nath committed aggravated sexual harassment on the victim 'X', who was a minor at the time of the incident.

**My Decision & Reasons Thereof:**

8) The **informant Maimoti Barman (PW-1)** deposed that the victim is her granddaughter & that she lodged the case due to a misunderstanding. She further deposed that no such incident, as mentioned in the FIR happened. The **victim/PW-2** deposed that she and her

friends used to walk on the road & the accused used to tease sometimes. So, PW-2 informed her grandmother/informant. However, informant lodged the case due to a misunderstanding.

9) Thus, the above evidences reveals that as per the informant & the victim no such incident as narrated in the FIR happened, and that, the accused didn't do anything to the victim. Thus, in view of the above discussions it is held that **prosecution failed to prove beyond all reasonable doubt that the accused Chandi Nath committed offence u/s 10 POCSO Act.**

**ORDER**

10) From the discussion made above, it is seen that prosecution failed to prove beyond all reasonable doubt the charge u/s 10 POCSO Act against the accused Chandi Nath. Hence, **accused Chandi Nath is found not guilty and is acquitted from the charge u/s 10 POCSO Act.**

The accused person is set free at his liberty forthwith.

Bail bond furnished by the accused shall stand cancelled after period of 6 months & bailor accordingly discharge.

A copy of the judgment be forwarded to the learned District Magistrate, Nalbari, as provided u/s 365 CrPC.

Let the case record be consigned to record room after completing the formalities.

Given under my hand and seal of this court on this the **7<sup>th</sup> day of May'2021.**

**(Smti. Munmun B. Sarma)**

Special Judge (POCSO)

Nalbari

**APPENDIX**

**(A) Prosecution Witnesses:**

- i. PW 1 : Maimoti Barman (Informant)
- ii. PW 2 : 'X' (Victim)

**(B) Prosecution Exhibited Documents:**

- i. Ext-1 : Statement u/s 164 CrPC
- ii. Ext-1(1) & 1(2) : Signatures of victim/ PW-1

**(C) Defence Witnesses : Nil**

**(D) Defence Exhibited Document : Nil**

**(Smti. Munmun B. Sarma)**

Special Judge (POCSO)

Nalbari