

**IN THE COURT OF SPECIAL JUDGE : TINSUKIA**

Present: **C. R. Saikia, AJS**

**Additional Sessions Judge**

**Cum Special Judge, POCSO**

**Tinsukia**

(Date of judgment:- **19.05.2022**)

(Case No. POCSO Case NO. **24(M) 2015 (U/s 4 of POCSO Act)**)

COMPLAINANT :	<b>STATE OF ASSAM</b>
REPRESENTED BY	<b>B.L. Agarwal Learned Special P.P.</b>
ACCUSED	<b>Royan Lagun (A1) S/O Late Nika Lagun R/O Village Gutibari P.S. Bordumsa District : Tinsukia( Assam)</b>
REPRESENTED BY	<b>Smti Lakhi Barua Learned Advocate</b>

**Accused Details:**

Date of Offence	<b>From 01-01-15 to 05-05-15</b>
Date of FIR	<b>05-05-15</b>
Date of Charge sheet	<b>14-09-16</b>
Date of Framing of Charges	<b>22-09-17</b>
Date of commencement of evidence	<b>23-04-18</b>
Date on which judgment is reserved	<b>11-05-22</b>
Date of Judgment	<b>19-05-22</b>
Date of the Sentencing Order, if any	

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release On Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec. 428 Cr.P.C.
<b>A1</b>	<b>Royan Lagun</b>	<b>05-05-15</b>	<b>16-12-15</b>	<b>Section 4 of POCSO Act</b>			

## JUDGMENT

1. The gist of the prosecution case as disclosed in the ejahar is that one morning in the month of November 2014 Sri Royan Lagun of village Gutibari under Bordumsa P.S. had called Miss X, the minor daughter of the informant, to his shop by alluring her. Then he forcefully committed rape on Miss X and threatened her not to disclose it to anyone. Thereafter also the said accused had committed sexual intercourse with Miss X. Resultantly Miss X became pregnant.
2. The mother of Miss X lodged an ejahar with the Officer In charge of Bordumsa P.S. by disclosing the said facts. On the basis of the said ejahar Bordumsa P.S. case No 26/15 U/S 376(2)(i) IPC R/W Section 4 of POCSO Act was registered. On completion of investigation charge sheet was submitted against accused Royan Lagun U/S 376(2)(i) IPC R/W Section 4 of POCSO Act.
3. On appearance of the accused copies of relevant documents were furnished to him as required under section 207 Cr.P.C. Then after hearing learned counsels of both sides and after perusal of relevant documents available on record the then Special Judge, Tinsukia, framed a formal charge against the accused under section 4 of POCSO Act. The charge was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.
4. Prosecution side adduced evidence of one witness in order to bring home its case. The statement of the accused recorded under section 313 Cr.P.C. is of total denial. The accused has declined to adduce evidence in defence.
5. I have heard the argument of learned advocate of both sides. Also perused the evidence on record.

6. The point for determination in this case is as follows:

- (i) Whether the accused in this case had committed penetrative sexual assault on the minor daughter of the informant and thereby committed an offence punishable under section 4 of POCSO Act?

**DISCUSSION OF EVIDENCE, DECISION AND REASONS THEREOF**

7. PW 1 Dr Bornali Borah is the medical officer who examined the victim in connection with this case. It is in the evidence of PW 1 that she examined Miss X ( Name of the victim withheld) on 06-05-15 at 12:05 noon at Tinsukia Civil Hospital in connection with Bordumsa P.S. case No 26/15. According to her, the said victim was brought and identified by WHG Mamoni Konwar and was accompanied by her mother. On examination she found the victim pregnant of twenty weeks. PW 1 proves the medical report as Exhibit 1 wherein she has admitted Exhibit 1(1) to be her signature. She deposes that Exhibit 2 is the laboratory report wherein Exhibit 2(i) is the signature of Dr Prasanta Borgohain with which she is conversant. She deposes that Exhibit 3 is the radiological report wherein Exhibit 3(i) is the signature of Dr Shyamalima Gogoi with which she is conversant.

8. The evidence of PW 1 remains intact as the defence side declined to cross examine her. From the evidence of PW 1 it is affirmed that the victim was pregnant at the relevant time.

9. But the prosecution has failed to bring forth any evidence on record to determine the perpetrator of the offence. Learned Special P.P. has submitted that in spite of repeated issuance of summons the victim could not be produced.

10. Therefore, the point for determination needs to be answered in negative. Accordingly, accused Royan Lagun is acquitted of the alleged offence u/s 4 of POCSO Act. He is set at liberty forthwith. His bail bond is extended for a period of six months in view of provision u/s 437 A Cr.P.C.

11. Considering the nature of this case this court does not find it necessary to recommend it to District Legal Services Authority u/s 357 A Cr.P.C. It is also not sent to District Magistrate as required u/s 365 Cr.P.C.
  
12. This judgment is pronounced in the open court and given under my hand and seal of this court on this 19<sup>th</sup> day of May 2022.

**(C.R. Saikia)**

Addl. Sessions Judge Cum  
Special Judge POCSO  
Tinsukia

**APPENDIX****LIST OF PROSECUTION/DEFENCE/COURT WITNESSES****A. Prosecution**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	<b>Dr. Bornali Borah</b>	<b>Medical Witness</b>

**B. Defence Witnesses, if any: NIL**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
-	-	-
-	-	-

**C. Court Witnesses, if any : NIL**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
-	-	-
-	-	-

**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS****A. Prosecution:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
<b>1</b>	Exhibit P-1	<b>Medical Examination report</b>
<b>2</b>	Exhibit P-2	<b>Laboratory report</b>

**Defence : NIL**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
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**B. Court Exhibits: NIL**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
-	-	-

**C. Material Objects:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>

**(C.R. Saikia)**  
Addl. Sessions Judge Cum  
Special Judge POCSO  
Tinsukia