

**HEADING OF JUDGMENT IN SPECIAL CASE**  
**IN THE COURT OF SPECIAL JUDGE BILASIPARA**

**Present:- Smti S. Bhuyan, AJS**  
**Special Judge, Bilasipara**  
**Special Case No- 05 of 15**

**u/s 6 of POCSO Act**

**STATE**

**Versus**

Abdul Hai

Accused person

(Corresponding to GR case No- 562/13 u/s 6 of POCSO Act)

**Advocate appeared:-**

For the state:- Mr. T. Kr. Bhattacharya, Special P.P.

For the accused:-Mr. Habibar Rahman, Advocate.

Date of institution of the case            :- 20-06-13

Date of Framing charge                    :- 28-07-16

Date of prosecution evidence            :- 01-12-17

Statement of accused recorded on       :- 14-12-17

Date of Argument                            :- 14-12-17

Judgment delivered                        :- 14-12-17

## **JUDGMENT**

### **Prosecution Case**

1. Prosecution case in brief is that on 18-06-13 accused Abdul Hai entered into the informant's house and taking advantage of absence of informant committed rape on informant's minor daughter. Thereafter one bichar held in regard with said incident by villagers and on the said bichar accused confessed before villagers that he had wife and one minor girlchild but said bichar was could not concluded as police came and took away both victim and accused to police station. To this fact informant lodged the case before Bilasipara PS.

### **Investigation**

2. Officer-in-charge of Bilasipara police station on receiving the ejahar from Sakina Bewa registered a police case vide Bilasipara police case No. 562/13 under section 6 of POCSO Act and S.I Prahalad Das was entrusted to conduct the investigation of the case and after completion of investigation I/O submitted charge sheet against the accused person named herein above u/s 341 I.P.C r/w section 6 of POCSO Act.

### **Charge**

3. My then Ld. Predecessor after hearing learned counsel for both sides and perusal of material on record framed charge u/s 6 of POCSO Act against the accused person Abdul Hai and when charges read over and explained to the accused person he pleaded not guilty and claimed to be tried.

### **Trial**

4. In order to prove the prosecution charges against the accused person, prosecution adduce all together 2 numbers of witnesses. PW-1 Sokina Bewa, PW-2 Miss X, victim of the case. After closure of the prosecution evidence, statement of the accused person recorded u/s 313 Cr.P.C. Accused plea is denial, however declined to adduced evidence in support of the plea of denial.

5. **POINTS FOR DETERMINATION:-**

i) Whether accused being police officer on 18-06-13 at village Ghogabalapara under Bilasipara PS committed aggravated penetrative sexual assault on informant's minor daughter Miss X?

**ARGUMENT**

6. I have heard learned counsel for both sides. Ld. defence counsel made submission that informant and victim of this case did not support the prosecution case and therefore accused entitled acquittal.

**DISCUSSION, DECISION & REASON THERE OFF:-**

7. Prosecution allegation leveled against accused is that on 18-06-13 at village Ghogabalapara under Bilasipara PS accused had committed penetrative sexual assault on informant's minor daughter Miss X. In this case prosecution adduced evidence of informant and victim only. PW-2 is the victim of this case and she, being victim, is star witness of this case. Now let me analyze evidence on record.

8. PW-1 Sokina Bibi is the informant of this case and victim is her daughter. Her evidence is that she knows accused as she and accused worked in the same brick field industry. She deposed on the day of incident after returning home from work she found her daughter talking with accused in her house and therefore she lodged the ejarah. In cross she stated she can't say what her daughter is talking with accused.

9. PW-2, victim of this case deposed on the day of incident she was talking with accused at her house and at that time her mother came and saw them and lodged the case. She further deposed that during investigation she was medically examined and her statement was recorded by magistrate u/s 164 Cr.P.C wherein she put her signature. In cross she stated accused neither misbehaves with her nor did any indecent act with her.

10. From the scanning of evidence of PW-1 and PW-2 it is reveal that they did not support the prosecution case and tell different story on oath before court and hence their evidence totally overturn prosecution charge against the accused. Their evidence reveals that on the day of incident accused came to informant's house and talking with victim. They did not utter or made

single allegation that on the day of incident accused had committed penetrative sexual assault on victim. Thus, their evidence does not point any material against the accused person and not a single ingredient of section 5 of POCSO Act coming out against the accused Abdul Hai.

11. Therefore, in view of my discussion, and on scrutiny of the evidence on record, I come to my definite finding that prosecution totally failed to bring home charge u/s 6 of POCSO Act against the accused person Abdul Hai and I hold accused Abdul Hai not found guilty u/s 6 of the POCSO Act and accordingly he is acquitted from the charge of section 6 of POCSO Act and is set at liberty.

12. Bail bond of accused person will remain stands for next six (6) months u/s 437(A) Cr.P.C.

13. Given under hand and seal of this Court on this 14<sup>th</sup> day of December, 2017 at Bilasipara.

(Smti S. Bhuyan)

Special Judge, Bilasipara

Dictated and Corrected by me,

(Smti S. Bhuyan)

Special Judge, Bilasipara

Typed by,

Swmkhwr Brahma, Stenographer Gr. III.

**APPENDIX**

PROSECUTION WITNESS:-

PW-1 Sokina Bewa,

PW-2 Miss X, victim of the case

PROSECUTION EXHIBIT:- NIL

DEFENCE WITNESS :- NIL

DEFENCE EXHIBITES :- NIL

COURT EXHIBITES :- NIL

COURT WITNESS :- NIL

(Smti S. Bhuyan)

Special Judge, Bilasipara