

HIGH COURT OF TRIPURA
AGARTALA

Crl. A. 19/2020

Sri Sanju Tanti

Son of Late Sankar Tanti, resident of Ramjadu Para,
P.S. Khowai, District – Khowai, Tripura.

----Appellant

Versus

The State of Tripura

----Respondent

For the Appellant(s) : Mr. S.S. Datta, Advocate.

For the Respondent(s) : Mr. R. Dutta, P.P.

Date of hearing & delivery
of Judgment & Order : **07.04.2022**

Whether fit for reporting : **No**

BEFORE
HON'BLE MR. JUSTICE ARINDAM LODH

JUDGMENT AND ORDER (ORAL)

This appeal is directed against the judgment and order of conviction dated 15.05.2020, passed by learned Special Judge (POCSO), Khowai, Tripura, in Case No. Special (POCSO) 07 of 2018 whereby and whereunder the appellant has been found guilty for committing offence punishable under Section 8 of the POCSO Act and sentenced him to suffer Rigorous Imprisonment for 3(three) years for the said offence and

also found guilty under Section 448 of IPC and sentenced to suffer Rigorous Imprisonment for 1(one) year for the said offence.

2. The facts of the case as projected by the Ld. trial Judge, are as under:

“One Smt. Kiranmala Debbarma (mother of the victim) lodged this complaint against one Sanju Tanti, S/o Lt. Sankar Tanti of Ramjadu Para (Shepai hour), under Khowai PS, Khowai Tripura stating inter-alia that on 30.12.2017 at about 1800 hours the accused entered into the dwelling house of the complainant and molested the minor daughter of the complainant namely “X” (real name withheld) and tried to rape on her. On hearing the hue and cry of the victim the complainant appeared there and, thereafter, the accused fled away from there...”

3. After registration of the case, the allegations levelled in the complaint had been investigated. During the course of investigation, the investigating officer recorded the statements of the victim as well as other witnesses. Being satisfied with the complicity of the accused relating to the offence, he submitted charge-sheet against the accused.

4. After receipt of the charge-sheet, cognizance was taken and thereafter charge was framed under Sections 448 and 354 of IPC and Section 8 of the POCSO Act, 2012. The contents of the charges were read over and explained to the accused, to which he pleaded not guilty and claimed to be tried.

5. Prosecution to establish the offence had adduced as many as 8 (eight) witnesses.

6. On closure of the evidence, the accused was examined under Section 313 Cr.P.C to which he denied all the incriminating circumstances surfaced against him in the evidence on record. Thereafter, having heard the learned counsel appearing for the parties and after perusal of the record, the learned Special Judge convicted and sentenced the accused as aforestated.

7. Feeling aggrieved, and dissatisfied with the said order of conviction and sentence, the accused has preferred the instant appeal before this court.

8. Heard Mr. S.S. Datta, learned counsel appearing for the appellant. Also heard Mr. R. Dutta, learned Public Prosecutor appearing for the State-respondent.

9. After careful perusal of the record it is found that the offence under Section 8 of the POCSO Act has not been established beyond reasonable doubt. The prosecution witnesses including the victim has not specifically stated anything that there was any intention of the accused to molest her. However, though she stated that the accused had touched her hand, in this situation, in my opinion, the ingredients of Section 8 have not been fulfilled and conviction and sentence under

Section 8 of the POCSO Act stand quashed and set aside. However, it has been proved that the accused had trespassed the house of the complainant.

10. In my opinion, appropriate and proportionate sentence should be imposed upon the accused-appellant. In exercise of the power of this court, I modify the sentence herein. The conviction under Section 448 of IPC has not been interfered with and considering the nature of offence that the accused-appellant had trespassed the house of the complainant, I modify the sentence to the extent that the accused-appellant shall pay a fine of Rs.10,000 (Rupees ten thousand) to the victim/complainant, in default of which, the accused-appellant shall suffer simple imprisonment for a period of six months.

11. With the aforesaid directions, the sentence as imposed by learned Special Judge has been modified. It is further directed that the fine money shall be deposited to the concerned court within a period of six months and on realization of the said fine money, the learned court shall pay the same to the victim/complainant.

The Appeal stands allowed in part.

Send down the LCRs.