



Serial No. 01
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Cr1.A No. 27 of 2024

Date of CAV: 14.08.2026

Date of pronouncement: 01.09.2026

Rockyrooy Lyngkhoi

.....Appellant

- versus -

1. State of Meghalaya duly represented by the Chief Secretary, Government of Meghalaya, Shillong.
2. The Officer in charge, Nongstoin Police Station, West Khasi Hills District, Meghalaya, Shillong.
3. The Investigating Officer, Nongstoin Police Station, West Khasi Hills District, Meghalaya, Shillong.

....Respondents

Coram:

Hon'ble Mrs. Justice Revati Mohite Dere, Chief Justice

Appearance:

For the Petitioner : Mr. H.L. Shangreiso, Sr. Adv. with
Mr. T. Dkhar, Adv.

For the Respondents : Mr. K. Khan, AAG with
Mr. S. Sengupta, Addl PP
Mr. A.H. Kharwanlang, Addl PP

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| i) | Whether approved for reporting in Law journals etc.: | No |
| ii) | Whether approved for publication in press: | No |

**JUDGMENT:**

This appeal is directed against the judgment dated 27.03.2024 and order dated 09.04.2024, passed by the learned Special Judge (POCSO), West Khasi Hills District, Nongstoin in Special (POCSO) Case No. 06 of 2020 convicting the appellant for the offence punishable under Section 9(n) of the Protection of Children from Sexual Offences Act, 2012 (hereinafter, for the sake of brevity referred to as 'POCSO Act') and sentencing the appellant to suffer rigorous imprisonment for five years under Section 10 of the POCSO Act and, to pay fine of ₹20,000/- and in default of payment of fine, to further undergo simple imprisonment of three months.

The Court also in exercise of its power under Section 357A(2) of the Cr.P.C. read with Rule 9(2) of the POCSO Rules, 2020, recommended compensation of ₹1 lakh to be paid to the child-survivor by the Meghalaya State Legal Services Authority, Shillong, as stipulated in Rule 9(5) POCSO Rules, 2020, for her welfare. Interim compensation, paid if any, was to be adjusted against the final compensation.



2. The facts in brief are as under:

The appellant is the uncle of the survivor aged, 15 years. According to the PW1 (mother of the survivor), on 23.09.2019, her daughter (survivor) informed her elder daughter on telephone i.e., that the appellant had sexually assaulted her, pursuant to which her elder daughter informed her of the same. PW1 (mother of the survivor) thereafter, informed the incident to the family members, went to the village where her daughter was residing with her cousin sister and her husband (appellant); confronted the appellant; brought back her daughter to Shillong; went to the hospital and thereafter, informed the incident to Nongstoin Police Station, pursuant to which an FIR came to be lodged. After registration of the FIR, the Police recorded the statements of the witnesses both, under Sections 161 and 164 of the Cr.P.C., collected evidence and thereafter, filed charge-sheet against the appellant for the alleged offence punishable under Section 5(n) read with Section 6 of the POCSO Act in the Court of the learned Special Judge (POCSO).



3. The appellant pleaded not guilty to the charge and claimed to be tried. His defence appears to be that he is innocent.

4. The prosecution in support of its case, examined as many as six witnesses as under:

PW1 – Mother of the survivor.

PW2 – Survivor.

PW3 – Elder sister of the survivor.

PW4 – Brother-in-law of the appellant.

PW5 – Dr. Abilities Mawlieh, Medical Practitioner.

PW6 – W.P./S.I. Fredis K. Marak, Investigating officer.

5. Mr. H.L. Shangreiso, learned Senior Counsel submitted that the conviction of the appellant under Section 9(n) read with Section 10 of the POCSO Act, cannot be sustained for want of evidence and having regard to the inconsistencies in the evidence of the witnesses that has come on record. Learned Senior counsel submitted that the alleged act is also not supported by medical evidence. According to Mr. Shangreiso, learned Senior Counsel, the evidence of the witnesses does not inspire confidence nor appears to be trustworthy to sustain the



conviction of the appellant. He, thus submitted that the appellant be acquitted of the offence for which he was convicted and sentenced.

6. Mr. K. Khan, learned AAG supported the impugned judgment and conviction, and submitted that no interference was warranted in the same. He submitted that the evidence of the survivor inspires confidence, is of a sterling quality and is sufficient to sustain the conviction of the appellant. He submitted that even otherwise, the evidence of the survivor is duly corroborated by her mother (PW1) and sister (PW3) and that there is no material on record to show as to why the appellant would be falsely implicated by the witnesses, more particularly when the survivor (PW2) was sent by her mother (PW1) for pursuing her studies to the appellant's house.

7. Having perused the evidence with the assistance of the learned counsel for the respective parties and the record, no infirmity can be found in the impugned judgment and order of the learned Special Judge (POCSO), West Khasi Hills District,



Nongstoin, convicting and sentencing the appellant as stated aforesaid in para 1 of the judgment for reasons to follow.

8. PW2, the survivor was 15 years at the relevant time and was residing with her mother's cousin and her husband (appellant) in their village and was pursuing her education i.e., was studying in standard 9th at Myriaw village. According to PW2 (survivor), the incident took place on 23.09.2019 at 6 p.m. when the appellant picked her up from tuition and told her that they had to hurry back home as his wife (survivor's aunt) was about to reach home. She has stated that on reaching home, she was sitting in the kitchen and that the appellant's two minor children were attending tuition classes in the neighbourhood; that the appellant used to fetch his children from tuition, however, on that particular day he did not fetch them; that the appellant asked her if she wanted to know what to do if she has a boyfriend to which, she replied, 'no', several times; that he kept repeating the same again and again, and then called her to his bedroom. When asked what happened in the bedroom of the appellant, PW2 answered *"when I went to his bedroom he asked me to lie*



down on his bed, he then opened my long pant and underwear, he also opened his pant and undergarments and then he started fondling my breast and then he committed penetrative sexual assault on me by inserting his male organ in the private parts. After committing the said act upon me, he told me not to tell anyone regarding the said incident and also to act normally when Meiheh returns home.” Thereafter, PW2 in her evidence has deposed that the appellant helped her put on her clothes, switched on the lights of the bedroom and called her to the kitchen; that when she entered the kitchen, the appellant’s wife was present and that they had dinner.

9. She has stated that although, she wanted to report the incident to her aunt, she did not have the courage as the appellant had warned her from doing so, and thereafter, on the next day, after attending tuition, she went to her friend’s house, requested her for a mobile phone and called her elder sister (PW3) and narrated the entire incident committed by the appellant on her. She has stated that thereafter, her sister (PW3) informed her mother and her mother (PW1) on receiving the



information alongwith other family members came to Myriaw village and disclosed the incident to all the family members, however, the appellant when confronted denied the allegations. She has stated that pursuant thereto, she went with her mother to Nongstoin Police Station and narrated the incident of sexual assault to the Police, after which, she was taken to Nongstoin Civil Hospital for medical examination, accompanied by her mother.

10. PW2 also showed the bedroom where the appellant committed the sexual assault on her, pursuant to which, photographs were taken. She has further stated that at the relevant time, she was 15 years of age and her date of birth was 08.04.2005. She produced her original birth certificate before the Court.

11. Although, in the examination-in-chief, PW2 alleged penetrative sexual assault, in her cross-examination, she has stated that the appellant did not commit penetrative sexual assault but laid on top of her.



12. The evidence of PW2 is duly corroborated by her mother (PW1) and her elder sister (PW3), to whom the disclosure was made by the survivor. The evidence of PW3 (elder sister of the survivor) is duly corroborated by the disclosure made by her sister (PW2) to her that the appellant had done something wrong in her private parts on 23.09.2019 and that she had informed the same to her on the mobile. PW3 has stated that on receiving the said information, she immediately informed her mother (PW1), who was at her work place, pursuant to which her mother returned home and thereafter, went to Myriaw village alongwith the relatives; that when the family members inquired about the allegation, the appellant did not respond; that thereafter, her mother went to the Police Station and lodged the complaint.

13. Again, in the cross-examination of the said witness, it has come that it is fact, that the appellant had not committed penetrative sexual assault but just laid on top of the victim.

14. The aforesaid evidence is again, duly corroborated by PW1(original complainant and mother of the survivor). PW1 has deposed that on 23.09.2019, her daughter was studying in



Myriaw village and staying with her cousin sister and husband (appellant); when, she informed her elder daughter (PW3) about the bad things done to her by the appellant; pursuant to which PW3 informed the same to her; that on learning of the same, she went to the Myriaw village alongwith her relatives where again, her daughter (PW2) informed her about what the appellant had done to her; that when she confronted the appellant, *'he pleaded for forgiveness and stated that he has committed a mistake and did not commit penetrative sexual assault on her daughter but just laid on top of the survivor'*; that on returning to Shillong and on learning the information from her daughter, she took her daughter to the hospital for medical check-up after which, a FIR was lodged. She has identified her signature in the FIR, which was exhibited.

15. Again, in the cross-examination of the said witness, it has come that the appellant did not commit penetrative sexual assault on her daughter.

16. It thus, appears from the aforesaid evidence, in particular, the cross-examination and as admitted by the survivor herself



and the other witnesses that, there was no penetrative sexual assault and that the appellant had laid on top of her, the learned trial court convicted the appellant for a lesser offence, i.e., offence punishable under Section 9(n) read with Section 10 of the POCSO Act with the charge under Section 5(n) read with Section 6 of the POCSO Act. It may be noted that there is no challenge to PW2's (survivor's) evidence that the appellant had also fondled her breasts.

17. PW5, the doctor, who examined the survivor has deposed that she recorded the history narrated by the survivor, i.e., on 23.09.2019 at 6 p.m., the appellant fetched her from tuition to his house; that after reaching home, he told her that he wanted to teach her about physical relation so that she would be aware in the future; that he undressed her and started kissing her private part and performed sexual act on her; that during the incident, she felt unconscious and could not recollect anything; that the appellant verbally threatened her not to disclose the incident and that on the next day, she informed her relatives about the incident.



17. The evidence of the doctor further shows that on physical examination, the survivor did not have any physical injury, nor injury marks were detected on her body and the private parts.

18. In the cross-examination, the doctor has admitted that, if there was forceful penetration, there would be signs of laceration and bruises in the private area.

19. Thus, from the evidence on record as noted above, and what has come in the cross-examination of the survivor and the other witnesses, the learned Judge has rightly convicted the appellant for the offence punishable under Section 9(n) of the POCSO Act. Section 7 of the POCSO Act defines ‘sexual assault’ as under:

“7. Sexual Assault.– *Whoever, with sexual intent touches the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of such person or any other persons, or does any other act with sexual intent which involves physical contact without penetration is said to commit sexual assault.”*

20. Thus, having perused the evidence, no infirmity can be found in the impugned judgment and order convicting and sentencing the appellant as stated aforesaid.



21. The appeal is, accordingly dismissed and as such, disposed of.

22. Since, the trial court has also recommended compensation of ₹1 lakh to be given by the Meghalaya State Legal Services Authority to the child-survivor, a report to be submitted by the Secretary, District Legal Services Authority, West Khasi Hills, Nongstoin, whether the said amount has been disbursed to her or not. The said report to be submitted before this Court within six weeks.

23. The Registry to forward forthwith a copy of this judgment and order to the Secretary, DLSA, West Khasi Hills District, Nongstoin, to enable the Secretary to submit the report.

24. Place the aforesaid appeal for recording compliance of paragraph 22 on **13th October, 2026**.

(Revati Mohite Dere)
Chief Justice