**FORM-A**

**DECISION IN THE ORIGINAL JURISDICTION**
**IN THE COURT OF ADDITIONAL SESSIONS JUDGE-CUM-SPL. COURT**
**(UNDER POCSO ACT), SAMBALUR.**
**DISTRICT:SAMBALPUR**

PRESENT:

**Shri Abhilash Senapati**,
**(JO Code: 0D00310)**
Addl. Sessions Judge-cum-Spl. Court,
(under POCSO Act), Sambalpur.

**Date of judgment: <u>This the 9th day of January, 2024.</u>**

**<u>Spl. G.R. Case No.221/323 of 2017-2020. of 2021.</u>**
(Arising out of Naktideul P.S. Case No.05 dated 13.01.2017)
(**Registration No.04 of 2017**)

**(Details of FIR/Crime and Police Station)**

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| **Complainant/Informant** | Name: Mother of the victim. |
| REPRESENTED BY | Sri Santosh Kumar Panda,<br>Spl.P.P, Sambalpur |
| ACCUSED | **Kishori Dhanwar**, |
| REPRESENTED BY | Sri A.K.Panigrahi, SDC. |

**FORM-B**

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| Date of Offence | 12.01.2017 |
| Date of FIR | 13.01.2017 |
| Date of Charge-sheet | 15.03.2017 |
| Date of Framing of Charge | 20.01.2018 |
| Date of commencement of evidence | 20.08.2018 |
| Date on which judgment is reserved | 11.12.2023 |
| Date of Judgment | 09.01.2024 |

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| Date of the Sentencing Order, if any | 09.01.2024 |

**ACCUSED DETAILS:**

| Rank of the Accused | Name of the 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 section 428, CrPC |
|---|---|---|---|---|---|---|---|
| A1 | **Kishori Dhanwar**, | 14.01.2017 | UTP | u/s 450, 376(2)(i) of the IPC read with Sec.6 of the POCSO Act, 2012. | Convicted | Sentenced to undergo Imprisonment for life and to pay a fine of Rs 1 lakh/- i.d. R.I. for two years for the offence u/s 6 of the POCSO Act., R.I. for 10 years and to pay fine of Rs50,000./-i.d. R.I. for 1 year u/s 450 of IPC. | From 14.01.2017 till the date of pronounce-ment of judgment. |

Status of the accused: Accused is an UTP and produced today.

**J U D G M E N T**

The accused Kishori Dhanwar stands charged for the offences punishable u/s 450, 376(2)(i) of the Indian Penal Code (here-in-after referred as 'IPC'), read with Sec. 6 of the Protection of Children from Sexual Offences Act, 2012 (here-in-after referred as 'POCSO Act') for committing house trespass by entering into the house of the informant for committing rape; upon a woman under sixteen years of age; and committing aggravated penetrative sexual assault on the victim.

It was held in ***Bhupinder Sharma vs. State of U.P: (2008) 8 SCC 551***, that keeping in view of the social object of preventing social victimization and ostracism of the victim of a sexual offence for which Section 228-A has been enacted, it would be appropriate that in the judgments, be it of a High Court or a Lower Court, the name of the victim should not be indicated. In view of the above provisions and Section 228 A of IPC, disclosure of identity of the victim is not made.

2. The prosecution case, in brief, is that on 13.01.2017 at 5.30 p.m. the mother/informant appeared at Naktideul P.S. and presented a written report before the IIC Naktideul P.S. to the effect that on 12.01.2017 at about 7 p.m. while the informant alongwith her husband and some villagers were busy in harvesting the paddy crops at their thrashing floor, one Kishori Dhanwar of her village came near her thrashing floor and thereafter left towards her house. The informant

thought that the accused must be going back to his village. At 8 p.m. when the informant returned from her thrashing floor she found her minor daughter aged one and half years lying unconscious having bleeding injuries from her vagina, mouth and nostrils. Thereafter she came to know from her neighbour Dasaratha Munda that during their absence, Kishori Dhanwar had gone inside the house and returned after a while and left the spot hurriedly. She alongwith other villagers thereafter searched for Kishori at his house and other places, but could not trace him. And accordingly she had reasons to believe that Kishori Dhanwar had sexually ravished her minor daughter. The victim was thereafter sent for her treatment to SDH, Rairakhol.

Basing upon the said FIR the IIC, Naktideul P.S. registered P.S. Case No.05 dated 13.01.2017 u/s 376(2)(i), 450 of IPC read with Sec.6 of the POCSO Act and directed S.I. Niytyananda Naik to take up investigation. It is to be noted here that by then the treatment of the victim had already started at SDH, Rairakhol, During the course of investigation the IO examined the informant, who fully corroborated her FIR story, recorded her statement, examined the scribe of the FIR, visited the spot, examined the father of the victim and neighbourers of the informant and recorded their statements, examined other witnesses, seized the wearing apparels of the victim on production by the mother of the victim and prepared the seizure list, conducted raid at the house of the accused but could not apprehend the

accused. On 14.01.2017 he apprehended the accused and examined him. As prima-facie case u/s 450/376(2)(i) of the IPc read with Sec.6 of the POCSO Act well made out against the accused, he arrested him after observing all formalities, visited the spot and prepared the spot map, sent the accused to SDH, Rairakhol for his medical examination and opinion, seized the wearing apparels of the accused on his production and biological samples of the accused on production by the escorting party and prepared seizure lists separately, obtained the medical examination report of the accused and forwarded the accused to the court. On 15.01.2017 he received the Medical examination and opinion from the Medical Officer of the victim, seized the biological samples of the victim on production by Constable T.Seth, and prepared the seizure list, got the statement of the neighbouring witness Dasaratha Munda u/s 164 of CrPC by the learned JMFC, Sambalpur and made prayer before the court for recording of statement of the informant u/s 164 of CrPC, seized the Birth Certificate of the victim, wherein the date of birth of the victim mentioned as 22.10.2015 on production by the father of the victim and prepared seizure list, left the said Birth Certificate in zima of the father of the victim by executing a zimanama, The IO made prayer before the Court for sending the seized exhibits to RFSL, Sambalpur for chemical examination and opinion and as per the order of the Court sent the same to RFSL, Sambalpur for examination and opinion, got the statement of the informant and neighboring witness Dasaratha Munda recorded u/s 164 of CrPC. As per the order

of the SP, Sambalpur on 22.02.2017 Inspector L. Buda, DSP, IUCAW, Sambalpur took charge of investigation of the case, who during investigation re-examined the informant and other witnesses, who corroborated to their earlier statements. After completion of investigation as prima-facie evidence well made out against the accused he submitted charge sheet against the accused u/s 450, 376(2)(i) of IPC read with Sec.6 of the POCSO Act against the accused after observing all formalities. Accordingly, this Court after hearing from both the side framed charge against the accused, to which the accused pleaded not guilty and claimed for trial. Hence, this case.

3. The accused pleaded innocence and that of false implication basing on which the trial proceeded against him.

4. The points to be determined in this case are :-

i. Whether on 12.01.2017 at 7 p.m. at village-Sahebi, Dhandamunda under Naktideul P.S. the accused committed house-trespass by entering into the building in the possession of the informant, used as a human dwelling in order to commit the offence of rape punishable with imprisonment for life;

ii. Whether on the above noted date, time and place the accused committed rape on the victim, a minor girl of one and half years of age.

iii. Whether on the above noted date, time and place the accused committed aggravated penetrative sexual assault on the victim.

5. In order to establish its case, the prosecution has examined eleven witnesses and tendered five set of documents. PW2 is the mother/informant, PW6 is the father of the victim, PW3 Dasaratha Munda, neighbouring witness, PW4 Sarat Kumar Swain, scribe of the FIR, PW5 Sada Munda, PW7 Tipu Munda are the co-villagers of the informant, PW1 Kulha Dehury, Havildar, PW8 Mukti Prakash Dungdung, Constable are the seizure witnesses, PW9 Dr. Asutosh Hota, who examined the victim medically and submitted examination report, PW11 Dr. Amulya Ratna Mohanty, who examined the accused medically and submitted report and PW10 Lambodhar Buda, the IO of this case4, who submitted charge sheet. The prosecution has proved documents vide Ext.1 to Ext.P-5/1. On the other hand, defence has neither preferred to examine any witness nor proved any document on its behalf.

6. In order to prove any offence under POCSO Act, the first and foremost duty of the prosecution is to prove that the victim is a “child” on the day of occurrence. Section 2 (d) of the Act defines the term “child”, which means any person below the age of 18 years. Since implementation of the POCSO Act, the determination of age of the victim was to be considered by many Courts after going through different documents and evidences. But, the Hon’ble Apex Court in case ***of Jarnail Singh Vrs. State of Haryana (2013) 7 SCC 263 and in State of M.P. vs. Anoop Singh (2015) 7 SCC 773*** has settled the clear position of law relating to determination

of age of the victim by the courts in POCSO cases. It has been held that, there is no specific provision available for determination of age of a "child" except under the Juvenile Justice (Care and Protection of Children) Act, 2015. Hence, Section 94 of the above Act, which prescribes the method of calculating the age of the "child in conflict with the law", shall be adopted by the trial Courts at the time of determination of age of the victim in POCSO cases. Considering the aforesaid guidelines let us examine the age of the victim in this case.

7. Section 94(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015 which provides as under:

> "In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining-
>
> i. The date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;
> ii. The birth certificate given by a corporation or a municipal authority or a panchayat;
> iii. and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board.

8. In this case PW6, who is the mother of the victim and informant of the present case has clearly stated that the victim

at the time of occurrence was about one and half years old. PW9, the Medical Officer has stated that after examination of the x-ray plate and radiological examination report he found the age of the victim is within one year to one and half years.

However, on perusal of the Birth Certificate issued by Govt. of Odisha, Department of Health and Family Welfare seized by the Investigating Agency, the date of birth of the victim is mentioned as 22.10.2015.

9. Considering the above entry, corroborated evidence of the prosecution witnesses and in view of the observation made by the Hon'ble Apex Court in Jarnail Singh's case (*Supra*) it is found that the age of the victim was 1 year, 2 months and 20 days on the date of alleged incident. Therefore, the victim is held to be a "child" under section 2(d) of the POCSO Act.

10. Before analyzing the evidences in this kind of cases, it would be appropriate to mention the position of law settled by the Hon'ble Apex Court in this regard.

11. It has been held in the case of ***Narendra Kumar v. State (NCT of Delhi); AIR 2012 SC 2281*** that:

> "Conviction can be based on the sole testimony of the prosecutrix provided it lends assurance of her testimony. However, in case the Court has reason not to accept the version of prosecutrix on its face value, it may look for corroboration. In case the evidence is read in its totality and the story projected by the prosecutrix case becomes liable to be rejected."

12. It is also well settled in law that the conviction can be based on the sole testimony of the prosecutrix, if her evidence does not suffer from infirmities or is not improbable and is found to be reliable and that corroboration is not necessary unless there are compelling reasons for seeking corroboration and that corroboration is not a required rule and may be dispensed with whenever the court is satisfied that it is safe to do so and that the rule is not that corroboration is essential before there can be a conviction, but there is necessity of corroboration as a matter of prudence. It is also well settled in law that absence of injury on the private part of the victim or stains of semen or spermatozoa is of no consequence and cannot negative the evidence of rape. It is also well settled in law that while the medical evidence is to the effect that there are no signs of recent intercourse or injury on the girl's private part and where it is clear that the prosecutrix is not reliable witness or is a willing party to the sexual intercourse, it would not be safe to convict the accused on her uncorroborated testimony.

13. The same view was also taken by their Lordship in ***Prasant Pradhan v. State of Orissa; (2009) 43 OCR 18*** wherein their Lordship held that while the evidence of the prosecutrix found conflict with the medical evidence and the chemical examination report does not corroborate the victim's testimony in a case of rape, no credence can be attached to her version. Similarly in case of ***State of Orissa v. Tahsil Harijan; (2005) 60 OCR 221*** their Lordship held that

a corroboration to the victim's evidence is necessary where her statements suffers from basic infirmity and probability factor renders it unworthy of credence. Likewise in ***State of Orissa vs. Sudhansu Sekhar Jena @ Bulu; (2015) 60 OCR 225*** their Lordship has held that independent corroboration is necessary to the version of the victim girl while it suffers from basic infirmity.

14. It is true that rape is one of the most heinous and reprehensible of crimes that can be committed on a woman and it is for this reason that courts have leaned heavily in favour of such a victim. [***State of Punjab vs. Gurmit Singh & Ors. (1996) 2 SCC 384***]. In this matter the Hon'ble Apex Court allowed the State appeal against acquittal and while convicting the accused under section 376 of the IPC, observed thus:

> "Of late, crime against women in general and rape in particular is on the increase. It is an irony that while we are celebrating women's right in all spheres, we show little or no concern for her honour. It is a sad reflection on the attitude of indifference of the society towards the violation of human dignity of the victims of sex crimes. We must remember that a rapist not only violates the victim's privacy and personal integrity, but inevitably causes serious psychological as well as physical harm in the process. Rape is merely a physical assault- it is often destructive of the whole personality of the victim. A murder destroys the physical body of his victim, a rapist degrades the very soul of the helpless female. The Courts, therefore, shoulder a great responsibility while trying an accused on charges of rape. They must deal with such cases with utmost sensitivity. The Courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If evidence of

> the prosecutrix inspire confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the Court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations."

The Hon'ble Court also observed that the alarming frequency of crimes against women had led Parliament to make some special laws in the background that rape was a very serious offence and that this was another factor which was to be kept in mind while appreciating the evidence in such matters.

The observation in Gurmit Singh's case were reiterated in ***Ranjit Hazarika vs. State of Assam, (1998) 8 SCC 635*** in the following terms:

> "The courts must, while evaluating evidence, remain alive to the fact that in a case of rape, no self-respecting woman would come forward in a court just to make a humiliating statement against her honour such as is involved in the commission of rape on her. In case involving sexual molestation, supposed considerations which have no material effect on the veracity of the prosecution case or even discrepancies in the statement of the prosecutrix should not, unless the discrepancies are such which are of fatal nature, be allowed to throw out an otherwise reliable prosecution case. The inherent bashfulness of the females and the tendency to conceal outrage of sexual aggression are factors which the court should not overlook. The testimony of the victim in such cases is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of a victim of sexual

assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. Why should the evidence of a girl or a woman who complains of rape or sexual molestation be viewed with doubt, disbelief or suspicion? The court while appreciating the evidence of a prosecutrix may look for some assurance of her statement to satisfy its judicial conscience, since she is a witness who is interested in the outcome of the charge levelled by her, but there is no requirement of law to insist upon corroboration of her statement to base conviction of an accused. The evidence of a victim of sexual assault stands almost on a par with the evidence of an injured witness and to an extent is even more reliable. Just as witness who has sustained some injury in the occurrence, which is not found to be self-inflicted, is considered to be a good witness in the sense that he is least likely to shield the real culprit, the evidence of a victim of a sexual offence is entitled to great weight, absence of corroboration notwithstanding. Corroborative evidence is not an imperative component of judicial credence in every case of rape. Corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under given circumstances. It must not be overlooked that a woman or a girl subjected to sexual assault is not an accomplice to the crime but is as victim of another person's lust and it is improper and undesirable to test her evidence with a certain amount of suspicion, treating her as if she were an accomplice. Inferences have to be drawn from a given set of facts and circumstances with realistic diversity and not dead uniformity lest that type of rigidity in the shape of rule of law is introduced through a new form of testimonial tyranny making justice a casualty. Courts cannot cling to a fossil formula and insist upon corroboration even if, taken as a whole, the case spoken of by the victim of sex crime strikes the judicial mind ass probable."

15. In order to prove the guilt of accused in offence under section 6 of the POCSO Act, at first the prosecution has to prove the fact that, the victim was subjected to aggravated penetrative sexual assault. Similarly, in order to prove the

offence u/s 376 (2)(i) of IPC, the prosecution has to firstly prove the fact of 'rape' as defined under section 375 of IPC and then to prove the age of the victim. In both offences under the IPC as well as under the POCSO Act, the prosecution has to prove the fact that the accused has either committed penetrative sexual assault or rape on the victim.

In any kind of criminal trial, the duty of the prosecution is to prove it's case beyond all reasonable doubts, if the case falls under any of the offences under IPC and an accused is to be presumed as innocent until he is found guilty by any court. After commencement of POCSO Act, such 'presumption' looses its identity. The principle of 'Reverse Burden' is introduced in the trial of POCSO cases. In any POCSO case, the "presumption of innocence" of the accused is relatively changed its dimension to "presumption of guilty". Section 29 of the POCSO Act provides that when any person is prosecuted for committing or abetting or attempting to commit any offence under Sections 3, 5, 7 and Section 9 of this Act, the Special Court shall presume, that such person has committed the offence, unless the contrary is proved. In other words, the aforesaid provision makes it clear that whenever a person is facing charge of any offence under Section 3, 5, 7 and 9 of the Act then the burden lies on him to prove the fact that he is innocent. The aforesaid presumption under Section 29 of the Act can only be practicable, when a person has committed any offence punishable under Section

4, 6, 8 and 10 of the POCSO Act. Besides the above offences, such provision has no application in other offences.

(b) Similarly, Section 30 of the POCSO Act provides that, in any offence under this act, which requires a culpable mental state on the part of the accused, the Special Court shall presume the existence of such mental state, but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in this prosecution. For the purpose of this section, a fact is said to be proved only when the Special Court believes it to exist under the principle of 'beyond reasonable doubt' and not merely when its existence is established by a 'preponderance of probability'.

(c) The Pair of "Presumptions" i.e. Section 29 and 30 of the POCSO Act propounds about radical shift from "Presumption of Innocence" to "Presumption of Guilt". When the pair of 'presumptions' is to operate in any case, it is to be decided at first by the Special Court about its applicability because it is a pivot in any case governed under the POCSO Act, 2012

(d) In this connection the Special Court is guided by the recent Division Bench decision of Hon'ble Gauhati High Court**,** in the matter of ***Manirul Islam @ Manirul Zaman Vrs. State of Assam and another, reported in (2021) 3 GauLT 128***. In the above case, their Lordship have expressed that the use of applicability of Section 29 and 30 of the

POCSO Act is based on the correct proposition of law, and the "reverse burden" on the accused u/s 29 and 30 of the POCSO Act would operate during trial and that too, after the prosecution establishes the foundational facts.

(e) In ***Noor Aga vs. State of Punjab: (2008) 16 SCC 417*** while deciding the constitutional validity of 'Reverse Burden' it is held that 'presumption of innocence' is a human right and cannot per se be equated with the Fundamental Right under Art.21 of the Constitution of India. It was held that, subject to the establishment of foundational facts and burden of proof to a certain extent can be placed on the accused. However, Hon'ble Supreme Court in various decisions referred above has held that, provisions imposing reverse burden must not only be required to be strictly complied with but also may be subject to proof of some basic facts as envisaged under the Statute. Hence, prosecution has to establish a prima facie case beyond reasonable doubt. Only when the foundational facts are established by the prosecution, the accused will be under an obligation to rebut the presumption that arise, that too, by adducing evidence with standard of proof of preponderance of probability. The insistence on establishment of foundational facts by prosecution acts as a safety guard against misapplication of statutory presumptions.

Foundational facts in a POCSO cases include the proof of the fact that the victim is a child, that alleged incident has been taken place, that the accused has committed the offence

and whenever physical injury is caused, it is to be established with supporting medical evidence. If the foundational facts of the prosecution case is laid by the prosecution by leading legally admissible evidence, the duty of the accused is to rebut it, by establishing from the evidence on record that he has not committed the offence. This can be achieved by eliciting patent absurdities or inherent infirmities in the version of prosecution or in the oral testimony of witnesses or the existence of enmity between the accused and victim or bring out the peculiar features of the particular case that a man of ordinary prudence would most probably draw an inference of innocence in his favour, or bring out material contradictions and omissions in the evidence of witnesses, or to establish that the victim and witnesses are unreliable or that there is considerable and unexplained delay in lodging the complaint or that the victim is not a child. Accused may reach that end by discrediting and demolishing prosecution witnesses by effective cross-examination. Only if he is not fully able to do so, he needs only to rebut the presumption by leading defence evidence. Still, whether to offer himself as a witness is the choice of the accused. Fundamentally, the process of adducing evidence in a POCSO case does not substantially differ from any other criminal trial except the fact that in a trial under the POCSO Act, the prosecution is additionally armed with the presumptions and the corresponding obligation on the accused to rebut the presumption.

Being fortified by the above decision, this Court is of the humble view that the question of presumption u/s 29 and 30 of the POCSO Act would operate in this case, depending upon the foundational evidence led by the side of prosecution. The question regarding the above 'presumption' can only operate after the prosecution has led enough evidence so that the onus will shift upon the accused to prove his part of fact and/or to disprove the facts adduced by prosecution.

16. In a criminal trial, the duty of the prosecution is to produce evidences before the Court for proving the fact relating to the guilt of the accused. The duty of the Court is to evaluate the evidences only which are substantive in nature. The evidences become substantive, when the same are produced either in oral or documentary before the Court on oath in presence of the accused. Therefore, at the time of evaluating the evidences and appreciating the materials, the Court has to only look into the substantive evidences. The Law is very clear that the statements recorded by the police under Section 161 of CrPC and by the Magistrate under Section 164 CrPC are not substantive evidences, but these can be used as previous statement under Section 157 of Evidence Act. The statement under section 164 CrPC can be used for the purpose of corroboration and contradiction whereas the statement under section 161 CrPC can be used by the defence for contradicting the prosecution witness. The reason behind the above principle is that these above

statements are always recorded in absence of the accused persons. Similarly, the facts mentioned in First Information Report are also not substantive in nature and it can only be used for the purpose of corroboration and contradiction to it's maker.

17. In the present case at hand, the prosecution has already proved the age of the victim at the time of occurrence, which is nearly one and half years and thus, she cannot be a competent witness to depose in the Court due to her age. Let us first of all come into the allegation u/s 376(2)(i) of the IPC and u/s 6 of the POCSO Act together. We need to first ascertain as to whether the victim was sexually ravished or not in the present case and thereafter we can check whether the accused was the sole perpetrator of the offence or not.

18. Coming into the allegations of rape let us first of all analyze the evidence of PW9, who is the Medical Officer, who examined the victim in this case. The Medical Officer has clearly in his evidence stated that the victim was about one year two months old and in Paragraph-2 has mentioned that the victim had an abrasion of size ¼ c.m. x ¼ c.m. with bleeding over posterior wall of vagina and another abrasion of size ¼ c.m. x ¼ c.m. over inner side upper lip. The radiological examination of the victim revealed that her age was about one to one and half years old at the time of the occurrence. In his cross-examination the witness has stated that the above injuries could have been possible if the victim would have come in contact with any hard and blunt toy

while playing games or either by self-infliction. In my opinion the evidence adduced by the Medical Officer in his examination-in-chief stands strong during cross-examination and this bald suggestion about the present injuries being caused by self-infliction or coming into contact with any hard blunt toys are figments of imagination of the defence and in no way proves that the victim was not sexually ravished. The above suggestion is a vague one and is based upon the above type of injuries and not on the specific injuries in this case. Furthermore, Ext.4/1, which is the Medical report made by PW9 clearly reveals that there is sufficient clinical evidence of sexual assault against the victim. PW9 has in his evidence clearly proved about the allegation of aggravated penetrative sexual assault and rape against the child.

19. Let us now again analyze the evidence of the informant. PW2, who is the mother of the victim has in her evidence clearly stated at Paragraph-2 that when she returned home after the occurrence she found that the victim was lying without sense and that there was bleeding from her nose and vagina. PW2 is the first after occurrence witness and accordingly has corroborated not only to her FIR but also to the medical evidence in the present case. PW5, PW6 and PW7 have all stated that they got to know about the occurrence from the informant i.e., PW2 and that when they reached at the spot they found the victim having bleeding injuries on her nose and vagina. These evidence of PW5, PW6 and PW7 as post-occurrence witnesses coupled with the

evidence of PW2, who is the informant and first post-occurrence witness and fortified with the clinching evidence of the Medical Officer, which stood strong during cross-examination clearly reveals that the victim in the present case, who is a minor, aged one and half years was sexually ravished.

20. Let us now come to the aspect of seizure. PW1 and PW8 are the seizure witnesses and both of them clearly prove their respective seizures. PW1 has in his evidence deposed that four biological samples were seized in his presence and PW8 has in his evidence stated that the biological samples of the accused were seized in his presence. Both of them have proved the seizures and they have virtually gone unchallenged in this case.

21. The next and final question to be determined as to whether the accused is the sole perpetrator in the present case or not. Let us once again re-visit the evidences pointing towards the accused in the present case. PW2, who is the informant has in her evidence deposed that on the date of occurrence she was working in her cultivable land alongwith the accused and thereafter the accused went to her home. After some time when she returned back to her home, she found the victim was lying unconscious with bleeding from her nose and vagina and that she suspected that the accused had sexually ravished the victim. She was told by one Dasaratha Munda, who is her neighbor, that the accused had entered into her house in her absence. She in her cross-

examination has further deposed that the accused is her own brother and usually visits her house. In her further cross-examination she states that at the time of occurrence she was at her thrashing floor, which is near to her house. Apart from the above, nothing further has been brought in her cross-examination. Her evidence with respect to the accused being with her in the field, going to her house thereafter, her suspicion about the accused carrying out the offence as no one apart from him had entered her house and the statement of Dasaratha Munda that the accused had entered her house have virtually gone unchallenged by the defence.

PW3, who is a circumstantial witness to the occurrence and had seen the accused entering into the house of the informant has clearly in Paragraph-2 of his examination-in-chief states that at the time of occurrence he was sitting in his verandah and he saw the accused coming from the thrashing floor and entering into the house of the informant and that after some time he came out from the house of the informant and had thereafter within some minutes heard shouts of the informant and upon reaching at the spot he found that the victim was lying on the ground with bleeding from her nose and vagina. In his cross-examination the defence could only adduce that he had not heard any cries of the victim and that the thrashing floor of the informant is adjacent to her house. The entire evidence adduced in the examination-in-chief has virtually gone unchallenged and the only thing which has been brought out by the defence is that

the thrashing floor is just adjacent to the house of the informant. In my opinion the evidence of PW2 and PW3 clearly prove that the sole perpetrator of the offence was the accused. The evidence of PW 3 standing strong during the searching questions put during cross examination clearly proves the allegation that no one apart from the accused had entered into the house of the victim.

22. Section 6 of the Indian evidence Act explains the principle of res gestae. Hearsay evidence is not admissible in court of law. But, res gestae is exception to hearsay rule. The rationale behind this is the spontaneity and immediacy of such statement that there is hardly any time for concoction. So, such statement must be contemporaneous with the acts which constitute the offence or at least immediately thereafter. *Res gestae* includes facts which form part of same transaction. So, it is pertinent to examine what is a transaction, when does it start and when does it ends. If any fact fails to link itself with the main transaction, it fails to be a res gestae and hence inadmissible. If any statement is made under the stress of excitement than such statement from part of the same transaction and is admissible before the court of law. The Doctrine of Res Gestae is a Latin word that literally means ‘things done’. It accounts for a spontaneous declaration made by a person promptly after an event and before the human mind has an opportunity to conjure a false story. A statement made under Res Gestae is made at the spur of the moment, i.e., during the commission of the crime or

right after the commission of the crime. This leaves very less room for doubts and ambiguities. The doctrine of Res Gestae is a declaration that is in close connection with the commission of the event that leaves nearly no room for misunderstanding and misinterpretation.

Section 6 of Indian Evidence Act states that - Relevancy of facts forming part of same transaction.—*Facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places.*

Sec. 8 of the Indian Evidence Act states that: Motive, preparation and previous or subsequent conduct.-

*Any fact is relevant which show or constitutes a motive or preparation for any fact in issue or relevant fact.*

*The conduct of any party, or of any agent to any party, to any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person an offence against whom is the subject of any proceeding, is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto.*

*Explanation 1. – The word "conduct" in this section does not include statements, unless those statements*

*accompany and explain acts other than statements; but this explanation is not to affect the relevancy of statements under any other section of this Act.*

*Explanation 2. – When the conduct of any person is relevant, any statement made to him or in his presence and hearing, which affecting such conduct, is relevant.*

As the Doctrine of Res Gestae includes the elements that fall outside the modern hearsay definition, it includes circumstantial evidence of the state of mind, verbal parts of acts, and certain non-verbal conduct. A transaction may constitute one incident occurring for a few moments or it may be spread over a variety of acts, declarations etc. All these would be deemed to be incidents. Although they strictly do not constitute a fact in an issue, they tend to explain or qualify such a fact. These incidents or facts are relevant only when they are linked by the proximity of time, unity or proximity of place, continuity of action and community of purpose or design.

23. In the present case at hand, the sole and only witness to the occurrence is the victim and she is a minor girl of about one and half years old. It would be practically impossible for her evidence to be recorded. The present case is completely based upon the circumstantial evidence and accordingly, PW2 and PW3, who are the best occurrence witnesses and circumstantial witnesses respectively have not only corroborated the entire prosecution story in the FIR but have

quite categorically corroborated their statement u/s 164 of CrPC and have proved the allegations leveled against the accused. The evidence of PW3, who is a circumstantial witness is found to be reliable and stood strong during cross-examination and has clearly proved that the accused had in deed entered the house of the informant and that after some time he had left the spot and soon thereafter the sexual ravishment of the victim was detected by her mother. PW3 thereafter has also proved that soon after the accused left, the informant entered into her house and he heard shouts of the informant immediately and rushed to the spot to find that the victim was lying on the ground with bleeding from her nose and vagina. These evidence have clearly gone unchallenged during cross-examination. There is no explanation adduced by the defence about the accused not entering into the house of the informant and in fact in the cross-examination of PW3 at Paragraph-4 he has stated that the accused often visits to the house of the informant. This clearly suggests that the accused had knowledge about the time which would be taken by the informant to return back and accordingly the act was committed by him. Furthermore, the accused knew very well that the informant was in the thrashing floor and the victim was alone and thereafter went to the spot, which clearly proves his motive alongwith malafide intention.

The time gap between which the accused entered and thereafter coming out and shouts of the informant soon thereafter as corroborated by PW2, PW3 clearly point

towards one and only one conclusion about the accused being the sole perpetrator of the offence. No evidence has been adduced by the defence in the present case to escape culpability. The defence has also failed to shift the burden which was upon him to disprove the allegations.

Let us now analyze the definition of rape under Sec.**375 IPC**, which states that- A man is said to commit 'rape" if he-

(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,

under the circumstances falling under any of the following seven descriptions:

*First*- Against her will.

*Secondly*-Without her consent.

*Thirdly*-With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

*Fourthly*-With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

*Fifthly*-With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

*Sixthly*-With or without her consent, when she is under eighteen years of age.

*Seventhly*-When she is unable to communicate consent.

Sec.376(2)(i) IPC, which was omitted by Act 20 of 2018, read prior to its omission 'commits rape on a woman when she is under 16 years of age'. Although the same are now stands omitted, but at the time of the occurrence the accused was charged under this section.

The victim in the present case is about one and half year old as proved by the prosecution and therefore the

offence u/s 376(2)(i) IPC and Sec. 6 of the POCSO Act are attracted.

In view of the above discussion it can be clearly held that the accused had indeed sexually ravished the victim, who is of about one and half year age. In view of the above, the victim being a child of about one to one and half years as stated by the Medical Officer, her mother along with other witnesses and the same coming virtually unchallenged, the prosecution being clearly able to prove that the victim was raped and sexually ravished by the accused can be clearly held that that the prosecution has been able to prove through the testimony of PW2, as a post-occurrence witness, PW3 as a circumstantial witness being corroborated by the FIR and their statements u/s 164 of CrPC and the evidence of the Medical Officer that the accused was the sole person, who had committed the offence and accordingly the accused is found guilty u/s 376(2)(i) of the IPC read with Sec. 6 of the POCSO Act.

24. The next allegation raised against the accused is u/s 450 of the IPC, wherein the prosecution has alleged that the accused had committed house trespass in order to commit the offence of rape against the child.

Section 441 of IPC defines Criminal trespass as "Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or

having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit “criminal trespass””.

Section 442 of IPC defines house-trespass as “Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit “house-trespass”. Explanation.—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.”

Section 450 of IPC states that, whoever commits house-trespass in order to the committing of any offence punishable with imprisonment for life, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

As discussed above it has been quite clearly proved by the prosecution that the accused is the sole perpetrator of the crime. It has also been proved by the circumstantial witness that he had seen the accused entering into the house of the informant and further PW2, who is the informant has clearly stated that the accused had gone to her house. As discussed above the prosecution has clearly proved the allegation of rape, which was carried out in the house of the informant and the punishment for the above offence u/s 376(2)(i) of the IPC

is imprisonment of either description for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine. The learned defence counsel has not been able to challenge the above averment in any ground. The only submission raised by the defence is that the accused being a relative used to regularly go to the house of the informant. The apathy in these type of offences and by the **perpetrator** is that the person who is in a position of confidence due to his relationship and taking advantage of the same has ravished the victim. The said offence is also punishable with imprisonment for life and accordingly it can be clearly held that the prosecution has proved the offence of house trespassing to commit an offence punishable with imprisonment for life and thereby punishable u/s 450 of the IPC against the accused.

25. The learned defence counsel has raised certain points during argument, which need to be discussed hereunder.

As discussed above the prosecution has already proved the allegation of rape, aggravated penetrative sexual assault and house trespass in order to commit the offence punishable with imprisonment for life. Let us now look into the defence raised in this case.

(i) Learned defence counsel has firstly averred that the principal witness i.e., the child has not been examined and accordingly the present case does not stand strong. As

discussed above, it has been proved that the child/victim is of about one and half years old and accordingly is not a competent witness to testify. The prosecution has clearly proved through the injuries of the victim on her private part about the victim being sexually ravished and further through the circumstantial evidence that apart from the accused there was no one who could have committed the offence. This being the state of evidence, non-examination of the child will not prejudice the prosecution case.

(ii) The second argument raised by the defence is that there was no cry or shouts raised by the victim. The learned defence counsel it seems, has mistaken the age of the victim. The victim's age at the time of the occurrence was about one and half years, a victim of such a tender age being brutally ravished, obviously cannot shout as loudly as could be heard by the nearby persons. Further bleeding in the nose of the victim clearly suggests that the accused might have attempted to close her mouth to stop her screams. In view of the above discussion the present contention also does not stand strong.

(iii) Thirdly, the defence has stated that that informant was at thrashing floor, which is near to the spot and accordingly it is quite impossible for the accused to commit the offence. As discussed above and at the cost of repetition it is once again stated that the prosecution has clearly been able to prove that the accused entering into the house of the informant. Admittedly, the thrashing floor of the informant was adjacent to her house. However, nothing has been elicited or brought out with respect to the distance of the said thrashing floor.

Further, it has been proved by the prosecution that the informant was busy in her field and accordingly it is quite possible that she could not have heard the screams or crying of the victim and hence the above averment of the defence also does not stand good.

(iv) Fourthly and very interestingly the defence has raised averment about the matter being compromised. The learned counsel for the defence has pointed out to the evidence of PW2 in Paragraph-5, wherein she has stated that she has no more grievance against the accused. The above statement at Paragraph-5 does not hold much relevance for the Court as already the prosecution has proved the entire chain of occurrence and further this is not a compoundable offence.

(v) The learned defence counsel has raised another contention about the main Investigating Officer being not examined in this case. In the present case at hand, PW10 who has submitted the charge sheet has been examined in this case. However, the initial IO, who is charge sheeted as C.S.W. No.19 is dead and accordingly has been declined by the prosecution. Hence, this argument of the defence has also no merit. The contradictions to PW2 and PW3 also are very minor in nature and donot hit the merits of the prosecution case.

(vi) The learned defence counsel has further raised a contention that PW5, PW6 and PW7 have not seen the occurrence and that there are no eye-witness to the occurrence. In the present case at hand, the only eye-witness is a child of one and half years old. The prosecution has

clearly been able to prove the entry of the accused to the house of the informant and exit of the house and thereafter the shouts of the informant showing bleeding from the private part of the victim, which clearly suggests the one and only inference that the accused has committed the offence. These type of offences are not committed in broad daylight in view of public and rather are done in closed rooms by perpetrator with perverse mind and accordingly the stand of there being no eye-witness does not hold any good. As far as the contention that PW5, PW6 and PW7 not seeing the occurrence is concerned, it has been clearly averred that they are post-occurrence witnesses and have clearly proved that the victim was sexually ravished.

26. From my above discussion and finding, I conclude that the prosecution has successfully proved commission of offence punishable under section 376(2)(i), 450 of IPC read with Sec.6 of the POCSO Act against the accused Kishori Dhanwar and as such I hold him guilty for committing offence punishable under Section 376(2)(i), 450 of the IPC read with Section 6 of the POCSO Act, 2012 and convict him thereunder.

The convict has committed the offence under POCSO Act on the victim who is one and half year old. Considering this aspect and nature of the offence committed by the convict, I do not think it proper to extend any of the benevolent provisions of the Probation of Offenders Act to the convict.

The seized Birth Certificate retained with the zimadar and the zimanama in that respect stands cancelled, the seized wearing apparels and biological samples be destroyed four months after the expiry of appeal period in case of no appeal. In case of appeal the seized articles will be dealt with as per the direction of the appellate court.

Addl. Sessions Judge-cum- Special Court,
(under POCSO Act), Sambalpur.

The Judgment is transcribed to my dictation, corrected and pronounced by me in the open Court in presence of the accused today this the 9th day of January, 2024 under my hand and the seal of the Court.

Addl. Sessions Judge-cum- Special Court,
(under POCSO Act), Sambalpur.

**HEARING ON THE QUESTION OF SENTENCE**.

The convict is present. The counsel for the convict and Spl. P.P. are also present. Heard both the sides on question of sentence. It is urged by the counsel for the convict that he is poor and an young man of 28 years and his life would be ruined if he is sentenced.

Learned Spl. P.P. appearing for the State urged for award of maximum punishment as prescribed under law as the convict has committed offence against an innocent minor girl of one and half year old. No leniency can be shown to the convict, who has committed the offence under POCSO Act when the same is proved by adequate evidence.

There is no scope for awarding sentence lesser than the prescribed minimum. The Hon'ble Apex Court held that leniency in matters involving sexual offence is not only undesirable but also against public interest. Such type of offences are to be dealt with severely and with iron hands showing lenience in such matters would be really a case of misplaced sympathy.

In case of ***Nipun Saxena vs. Union of India, (2019) 2 SCC 703,*** it is observed by the Hon'ble Apex Court that a minor who is subjected to sexual abuse needs to be protected even more than a major victim because a minor victim being an adult may still be able to withstand the social ostracization and mental harassment meted out by society, but a minor victim will find it difficult to do so. Most crime against minor victims are not even reported as very often, the perpetrator of the crime is a member of the family of the victim or a close friend. Therefore, the child needs extra protection. Hence, no leniency can be shown to an accused who has committed the offences under the POCSO Act, 2012 and particularly when the same is proved by adequate evidence before a Court of law.

It has been held by the Hon'ble Apex Court in case of ***Jameel vs. State of U.P., reported in (2010) 45 OCR (SC) 106*** that "punishment must be appropriate and proportional to the gravity of the offence committed. Imposition of appropriate punishment is the manner in which the court's respond to the society's cry for justice against the criminals.

Justice demands that court should impose punishment befitting the crime so that the court's reflect public adherence of the crime". Further in the case of ***Shyam Narain vs. The NCT of Delhi, reported in 2013 (2) Crimes 342 (SC)*** the Hon'ble Apex Court has held that "primarily, it is to be borne in mind that sentencing for any offence has a social goal. Sentence is to be imposed regard being to the nature of offence and the fundamental purpose of imposition of sentence is based on the principle that the accused must realize that the crime committed by him has not only created a dent in his life but also a concavity in the social fabric. The purpose of just punishment is designed so that the individuals in the society which ultimately constitute the collective do not suffer time and again for such crime. It serves as a deterrent. True it is on certain occasions opportunities may be granted to the convict for reforming himself but it is equally true that the principle of proportionality between an offence committed an the penalty imposed are to be kept in view while carrying out this complex exercise, it is obligatory on the part of the court to see the impact of the offence on the society as a whole and its ramifications in the immediate collective as well as its repercussions on the victim".

The convict has been found guilty under section 376 (2)(i), 450 of the IPC along with under section 6 of the POCSO Act. Section 42 of the POCSO Act prescribes 'Alternative punishment'- Where an act or omission constitutes an offence punishable under this Act and also

under Sections 166A,354A, 354B, 354C, 354D, 370, 370A, 375, 376 [376A, 376AB, 376B, 376C, 376D, 376DA, 376DB] [376E, section 509 of the Indian Penal Code or section 67B of the Information Technology Act, 2000 (21 of 2000)], then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment under this Act or under the Indian Penal Code as provides for punishment which is greater in degree.

In this case the accused is convicted under section 376(2)(i) of the IPC as well as under section 6 of the POCSO Act. The punishment prescribed u/s 6 of POCSO Act at the time of the occurrence was rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to fine. The punishment prescribed u/s 376(2) of IPC is for rigorous imprisonment for a term which shall not be less than ten years and may extend to imprisonment for life, which shall mean imprisonment for the reminder of that person's natural life and shall also be liable to fine. The punishment prescribed u/s 376 (2)(i) of IPC is same with that of Sec.6 of the POCSO Act. Hence, the convict is required to be punished only under section 6 of the POCSO Act in view of the above principle. On the day of occurrence, i.e., on 12.01.2017 the punishment for offence under section 6 of the POCSO prescribes imprisonment of either description for a term which shall not be less than ten years, but which may

extend to imprisonment for life and shall also be liable to fine.

The convict personally prays that he was working as labourer prior to his arrest and has been in judicial custody since 14.01.2017. Considering the above submissions, the age of the victim being a minor of 1 and ½ years at the time of occurrence and all other factors into account, this Court feels inclined to pass the maximum sentence upon the accused prescribed for the offence at the time of the occurence. Hence, the convict namely Kishori Dhanwar is sentenced to undergo **Imprisonment for life** and to pay a **fine of Rupees 1,00,000/- (rupees one lakh)**, in default thereof to suffer **Rigorous Imprisonment for a period of two years** for the offence under section 6 of the POCSO Act and to undergo **rigorous imprisonment for ten years** and to pay a **fine of Rs 50,000 /- (rupees fifty thousand)** and in default thereof to suffer Rigorous Imprisonment for **one year** for the offence u/s 450 of IPC. All the punishments are to run concurrently.

The fine imposed above, if realized shall be provided to the victim as compensation as per the provision of Sec.357 of CrPC.

The pre-conviction detention period undergone as UTP be set off under section 428 of CrPC against the substantive sentence.

The convict is apprised for the fact that he has a right to go on appeal against this judgment and order and in this

regard, he can also seek the help of District Legal Service Authority, Sambalpur.

Grant free copy of the judgment to the convict.

Sd/-

Addl. Sessions Judge-cum- Special Court,
(under POCSO Act), Sambalpur.

Dictated to the Stenographer, transcribed by him, corrected by me and pronounced the judgment in open court today this the 9th day of January, 2024 under my signature and seal of this court.

Sd/-

Addl. Sessions Judge-cum- Special Court,
(under POCSO Act), Sambalpur.

**Quantum of compensation to be granted to the victim u/s 33(8) of POCSO Act.**

It appears from the case record that the victim has not been provided with any compensation. Relying on the decision in the case of **Nipun Saxena Vrs. Union of India and others** reported in **(2019) 2 SCC 703** wherein Hon'ble Supreme Court has been pleased elaborately guide the Courts how to provide compensation to the victim in various cases. In view of the age of the victim at the time of occurrence and the nature of gravity of the offences committed and family background of the victim, I feel it necessary to recommend the case of the victim to DLSA, Sambalpur for granting of compensation. The interim compensation, if paid to the

victim any shall be adjusted with the amount of final compensation. Hence, a copy of the judgment be forwarded to the Secretary, DLSA, Sambalpur for compliance.

Sd/-
Addl. Sessions Judge-cum- Special Court,
(under POCSO Act), Sambalpur.

**FORM-C**

| **LIST OF PROSECUTION/DEFENCE/COURT WITNESSES** | | |
|---|---|---|
| **A. Prosecution Witnesses:** | | |
| **RANK** | **NAME** | **NATURE OF EVIDENCE**<br><br>**(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)** |
| PW1 | Kulha Dehury | Police witness/seizure witness |
| PW2 | Mother of the victim | Informant |
| PW3 | Dasaratha Munda | Other witness |
| PW4 | Sarat Kumar Swain | Scribe of the FIR |
| PW5 | Sada Munda | Other witness |
| PW6 | Father of the victim | Other witness |
| PW7 | Tipu Munda | Other witness |
| PW8 | Mukti Prakash Dungdung | Police witness/seizure witness |
| PW9 | Dr. Asutosh Hota | Medical witness |
| PW10 | Lambodhar Buda | Police witness/Investigating Officer |
| PW11 | Dr. Amulya Ratna Mahanty | Medical witness |

| B. Defence Witness, if any: | | |
|---|---|---|
| **RANK** | **NAME** | **NATURE OF EVIDENCE**<br><br>**(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)** |
| | **Nil** | |

| C. Court Witnesses, if any: | | |
|---|---|---|
| **RANK** | **NAME** | **NATURE OF EVIDENCE**<br><br>**(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)** |
| | **Nil** | |

| **LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS** | | |
|---|---|---|
| **A. Prosecution Exhibits:** | | |
| **Sl.No.** | **Exhibit Number** | **Description** |
| 1 | Ext.1 | Seizure list relating to the seizure of biological samples of the accused, |
| 2 | Ext.1/1 | Signature of PW1 on Ext.1, |
| 3 | Ext.2 | Plain paper FIR, |
| 3 | Ext.2/1 | Signature of PW4 on Ext.2, |
| 4 | Ext.3 | Seizure list relating to the seizure of the victim, |
| 5 | Ext.3/1 | Signature of PW8 on Ext.3, |
| 6 | Ext.4 | Medical Examination Report of the victim, |
| 7 | Ext.4/1 | Signature of PW6 on Ext.4, |

| | | |
|---|---|---|
| 8 | Ext.5 | Medical Examination Report of the accused, |
| 9 | Ext.5/1 | Signature of PW11 on Ext.P-5, |

| **A. Defence Exhibits, if any:** | | |
|---|---|---|
| **Sl.No.** | **Exhibit Number** | **Description** |
| | **Nil.** | |

| **B. Court Exhibits, if any:** | | |
|---|---|---|
| **Sl.No.** | **Exhibit Number** | **Description** |
| | **Nil.** | |

| **C. Material Objects:** | | |
|---|---|---|
| **Sl.No.** | **Material Object Number** | **Description** |
| | **Nil.** | |

Sd/-
Addl. Sessions Judge-cum- Special Court,
(under POCSO Act), Sambalpur.