

**IN THE COURT OF A . B., ADDL. SESSIONS JUDGE -VI(POCSO), WEST DISTRICT
ALLAHABAD, UTTAR PRADESH**

UID No. ----/18

SC No. ---/18

FIR No. ----/18,

PS -----

U/s 324/376 DA/302/201/34 IPC &

Sec. 6 of POCSO Act

**State Vs. 1. Dinu 2.Kallu
05.10.2018**

CHARGE

I, A. B., Addl. Sessions Judge-06 (POCSO) West District, U.P. do hereby charge you accused persons namely, **1. Dinu S/o Sh.R/O** and **2. Kallu S/o Sh.R/O.....** as under: -

That on 15.06.2018, the time unknown, during day time, at House No.....,.....,Allahabad, UP, of the victim (deceased), within the jurisdiction of PS-....., you both, in furtherance of your common intentions, had committed aggravated penetrative sexual assault upon Ms. S (identity withheld), who is a minor girl of 14 years of age, thereby you both accused persons had committed the offence punishable U/s 6 of POCSO Act, read with section 34 IPC and within my cognizance.

Or **in alternative**, on the above-said date, time and place, you both, in furtherance with the common intentions, committed rape upon the prosecutrix namely Ms. S (identity withheld), who is a minor girl of 14 years of age, against her will and consent and thereby you had committed an offence U/s 376DA /34 IPC, punishable with imprisonment for life, which shall mean imprisonment for the remainder of the natural life, and with fine, within my cognizance.

Secondly, on the above-said date, time and place, during the above noted occurrence you both, in furtherance with the common intentions, had caused hurt with sharped weapon upon prosecutrix namely Ms. S (identity withheld), who is a minor girl of 14 years of age, and thereby you had committed an offence punishable U/S 324/34 IPC that shall be punishable with imprisonment for a term which may extend to 3 years or fine or both, within my cognizance.

Thirdly, on the above-said date, time and place, during the above noted occurrence you both had strangulated the prosecutrix namely Ms. S (identity withheld), who is a minor girl of 14 years of age, by using her undergarments and caused injuries, on her person, with a sharp weapon, and caused death of the prosecutrix with common intentions and knowledge that the act was so imminently dangerous that it must, in all probabilities, caused death, thereby you had committed culpable homicide amounting to murder, an offence punishable U/S 302/34 IPC that shall be punishable with death or imprisonment for life within my cognizance.

Finally, on the aforesaid period and place, during the occurrence, you both in furtherance of their common intentions, had thrown the body of the prosecutrix (deceased) into a septic tank, at the backside of the house of the prosecutrix, in order to conceal and destroy the evidence of commission of the offence of murder of the prosecutrix, and thereby committed the offence punishable U/s 201/34 IPC and within my cognizance.

And I hereby direct that you both be tried by this Court of Sessions for the above noted charges.

(A. B)
Addl. Sessions Judge-06 (POCSO)
West, Allahabad, U.P.
15.10.2018

The above said charges have been read over and explained to the accused persons in vernacular language Hindi and they are questioned as under:

- Q: Do you accused Dinu understand the charge?
Ans: Yes.
Q: Do you accused Kallu understand the charge?
Ans: Yes.
Q: Do you accused Dinu plead guilty or claim trial?
Ans: I plead not guilty and claim trial.
Q: Do you accused Kallu plead guilty or claim trial?
Ans: I plead not guilty and claim trial.

RO & AC
Dinu **Kallu**
(Signature) **(Signature)**

(A. B)
Addl. Sessions Judge-06 (POCSO)
West, Allahabad, U.P.
15.10.2018

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UID No. ----/18

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U/s 324/376 DA/302/201/34 IPC &

Sec. 6 of POCSO Act

State

Versus

1. Dinu S/o A A, R/o H. No. ----, -----, Allahabad, U.P.

2. Kallu S/o B B, R/o H. No. ----, -----, Allahabad, U.P.

Date of institution : 00.00.2018

Judgment reserved : 14.12.2018

Judgment delivered : 15.12.2018

ORDER/JUDGMENT:

**Accused is convicted for the offences
Punishable under section 6 of POCSO
Act & U/S 324/376 DA/302/201/34 IPC**

**Present: Shri L.G, Ld. Addl. Public Prosecutor for the State
Shri M.G,Ld. Counsel for Accused Dinu
Shri P.D,Ld. Counsel for Accused Kallu
Accused Dinu and Kallu in Judicial Custody**

JUDGMENT

1. Briefly stated facts of the prosecution are that on 15.06.2018, the victim, a 14 years old girl, was alone in her house situated at Lucknow and was preparing for her examination. The two accused named Dinu and Kallu were working in the house. They took advantage of the fact of her being alone. They raped her, strangulated her by using her undergarments and caused injuries on her person with a sharp weapon. They threw her body into a septic tank at the back side of the house, which showed a disregard of respect for human dead body.

2. On the basis of an information received in the police station, regarding missing of one young girl of 14 years and that a foul smell coming from a septic tank, on finding a dead body of the minor girl of 14 years from such septic tank and that she was identified as the prosecutrix for which an information has already been registered regarding her missing from her house., an FIR No. -----/18 was registered U/s 302 IPC was registered on 16.06.2018, vide DD No. ----- and the matter was entrusted upon one Inspector Ms. X for investigation.
3. During the course of investigation, from the Post Mortem Report of the deceased prosecutrix, it was revealed that the prosecutrix was sexually abused with penetrative sexual assault before death and she received injuries with sharpened edged weapon and that the death was caused due to the blood loss and strangulation, thus the offences under Section 6 of POCSO Act & U/S 324/376 DA/201/34 IPC were added to the offence under Section 302 IPC in the FIR.
4. During investigation, the two accused persons namely Dinu and Kallu were arrested and their disclosure statements were recorded. On their pointing out, the knife, the weapon of occurrence was recovered from a nearby jungle at the instance of accused persons. The weapon was seized seal and was sent to CFSL. It was revealed that one Mr. P had seen the accused persons taking one gunny bag towards the septic tank on the relevant day, time and place. The statements of witnesses were recorded under Section 161 Cr.P.C. The TIP of the accused persons were conducted for identification by Mr. P.

On completion of the investigation, the chargesheet was filed against the accused persons for the offences under Section 6 of POCSO Act & U/S 324/376 DA/302/201/34 IPC.

5. Vide order dated 15-10-2018, the Charges were framed for the offences punishable under Section 6 of POCSO Act & U/S 324/376 DA/302/201/34 IPC, to which the accused persons pleaded not guilty and claimed trial.
6. In order to prove the guilt of the accused persons, the prosecution has examined 13 witnesses that includes:
- a) The public witnesses: PW1, Mr. A, the father of the prosecutrix and PW2, Mr. B, the neighbour of the prosecutrix who had seen the accused persons taking a gunny bag to the septic tank at the back side house of the prosecutrix.
 - b) The Police Witnesses: W Inspector Ms. X, PW13, HC Mr. Y, PW12 and SI Mr. Z, PW11, the crime team Inspector, HC Mr. N, DO, PW10 and HC Mr. L, MHC(M), PW9.
 - c) The Medical witnesses: Dr. Mr. S, the Doctor who conducted Post-Mortem PW3, Dr. Mr. P, the forensic doctor who examined the weapon, PW4 and Doctor Mr. Q, Director, CFSL, PW5 and Dr. Ms. R, the head of the gynea department who was member of Medical Board, that conducted the Post Mortem, PW6
 - d) Smt. P. K., the Principal of the school of the prosecutrix, PW8 who proved the age record of the prosecutrix.

- e) Ld. J.M. Ms. PQR, who conducted TIP proceedings of accused persons, PW7

The prosecution also produced and exhibited the documentary evidence

FIR No. /18 Ex. PX1, DD No. -/18 EX.PX2 , DD No. -/18 EX.PX3, Site Plan, EX.PW13/2, Arrest Memo, EX.PW13/3 Disclosure Statement, EX.PW13/4, Seizure Memos 1 to 4, EX.PW13/5-9 Pointing out Memo, EX.PW13/10 Crime Report, EX.PW11/1, Post Mortem Report, EX.PW 3/1, CFSL Report, EX.PW5/1, MLC/Gynea Report, EX.PW6/1, Age Report, EX.PW8/1, TIP Proceedings, EX.PW7/1 and the CCTV footage of the camera installed in the street EX.PX3.

7. On concluding of the prosecution evidence, the statement of the accused persons were recorded under Section 313 Cr.PC., thereby all the incriminating evidence & circumstances were put to the accused, wherein the accused persons they refuted all the allegations levelled against them and had pleaded their innocence taking plea that the father of the prosecutrix did not pay their remunerations for the work done at his house and finding that his daughter was missing, they had been falsely implicated, he had falsely implicated them for the offences alleged.

They did not lead any defence evidence.

8. **Shri L.G, Ld. Addl. Public Prosecutor** for the state has argued that the prosecution has successfully proved its case for the offences alleged beyond reasonable doubts against the accused persons through the ocular evidence of 13 prosecution witnesses including one eye witness PW2 who was independent witness and had seen the accused persons dragging the gunny bag from the house of the prosecutrix to the septic tank ,duly supported with the CCTV footage of the camera installed in the street covering such area showing the accused persons doing such act and that with the corroborative supporting documents, thereby, proving all the ingredients necessary for the offences alleged, leaving no room of doubts about

commission of offences by the accused persons.

Shri M.G,Ld. Counsel for Accused Dinu and Shri P.D,Ld. Counsel for Accused Kallu have vehemently opposed the contentions of the state submitting that the father of the prosecutrix did not pay their remunerations for the work done at his house and finding that his daughter was missing, they had been falsely implicated , he had falsely implicated them for the offences alleged.

9. The prosecution also produced and exhibited the documentary evidence

- (1) Whether the deceased/ prosecutrix was a minor under the age of 18 years at the time of the offence?**
- (2) Whether Penetrative Sexual Assault of the categories of aggravated described u/s 5 of POCSO Act was committed by accused persons, upon the prosecutrix before her death?**
- (3) Whether the accused persons caused hurt to the person of the prosecutrix with a sharp edged weapon?**
- (4) Whether the accused persons had caused the death of the prosecutrix by causing bodily injuries with sharp edged weapon and also by strangulation with her undergarments?**
- (5) Whether the accused persons disposed of the dead body of the prosecutrix/deceased by throwing it into a septic tank in order to destroy or concealing the commission of offences?**



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