GAHC030000162024

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRL.A(J)/1/2024

Sh. Roneihsanga
Saron Veng, Bilkhawthlir,
Mizoram

VERSUS

State of Mizoram
Aizawl

2: Shri Seltawn,
Saron Veng, Bilkhawthlir,
Mizoram

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

For the Appellant : Ms. B. Lalramhnemi, Amicus Curiae.

For the Respondents : Ms. Mary L. Khiangte, Addl. P.P., Mizoram
: Mr. Lalrokunga Pautu, Legal-Aid-counsel
(for respondent No. 2)

Date of Hearing : **28.04.2026**

Date of Judgment : **30.04.2026**

JUDGMENT & ORDER

1. Heard Ms. B. Lalramhnemi, the learned Amicus Curiae for the petitioner. Also heard Ms. Mary L.Khiangte, learned Additional Public Prosecutor for the State as well as Mr. Lalrokunga Pautu, learned legal-aid-counsel, appearing for the respondent No. 2.

2. This appeal has been registered on filing of an appeal petition by appellant, namely, *Roneihsanga*, who is presently detained in District Jail, Kolasib, where he is serving out his sentence. He has impugned the judgment dated 25.01.2023, passed by the Court learned Additional Sessions Judge, (FTC), Kolasib in Sessions Case (K) Case No. 3/2022, whereby the appellant was convicted under Section 4 of the POCSO Act, 2012 and has been sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs.20,000/- (Rupees Twenty Thousand) and in default of payment of fine to undergo further rigorous imprisonment for twenty days.

3. Since, the appellant has filed this appeal in the form of an appeal petition from jail, Ms. B. Lalramhnemi was appointed by this Court as Amicus Curiae to defend the cause of the appellant.

4. The facts relevant for consideration of this jail appeal, in brief, are that on 20.04.2021, the father of the victim boy, namely, Seltawna, had lodged an FIR before the Officer-in-charge of Bilkhawthlir Police Outpost under Vairengte P.S. Case No. 12/2021, *inter alia*, alleging that on the eve of 19.04.2021 between 4:00 PM to 4:30 PM, the son of the first informant, aged about fourteen years, went out to take bath. From there, he was called by the

present appellant to his home where he took off the clothes of the son of the first informant and by pinning his son to the bed, he tried to have anal sex with him. It is also stated in the FIR that the son of the first informant (herein after referred to as "victim boy"), felt it painful and he struggled and fought with the appellant.

5. On receipt of the aforesaid FIR, Vairengte P.S. Case No. 12/2021 was registered under Section 4 of the POCSO Act, 2012 and investigation was initiated. During the course of the investigation, the Investigating Officer recorded the statement of the complainant as well as victim and also medically examined the victim, collected the date of birth certificate of the victim. The Investigating Officer also visited the place of occurrence of offence and recorded the statement of witnesses. The victim was also examined under Section 164 of the Code of Criminal Procedure, 1973. The present appellant was arrested during the course of investigation on 20.04.2021. The present appellant also made confessional statement during the course of the investigation where he admitted his guilt. After completion of the investigation, charge-sheet was laid against the present appellant under Section 4 of the POCSO Act, 2012.

6. The trial court, on 30.03.2022, framed charge under Section 4 of the POCSO Act, 2012, against the present appellant. When the said charge was read over and explained to him, he pleaded not guilty and claimed to be tried. To bring home the charge against the present appellant, the prosecution side examined 10 witnesses including the first informant as well as the victim boy. The appellant was examined under Section 313 of the Code of Criminal Procedure, 1973 during which he denied the truthfulness of the testimony of prosecution witnesses and declined to give any clarification in his defence.

However, he stated that he would be adducing defence evidence. But in fact, no defence witness was examined by him in his defence.

7. Before considering the submissions made by learned counsel for both sides, let us go through the evidence on record.

8. The PW-1, namely, Seltawna, who is the father of the victim boy, has deposed that on 19.04.2021, in between 4:00 PM to 4:30 PM, his son went to a pond to take bath and on his way, he was abducted by the present appellant. He further deposed that he took the victim boy inside his residence and after locking the door from inside, he removed his clothes and after forcefully removing the pant of the victim, he tried to insert his private part into the anus of his son. He further deposed that the victim, however, resisted and one person, namely, Lalsangliana heard the screaming of his son and accordingly he rushed to his help. He has further deposed that on 20.04.2021, he lodged the FIR.

9. During his cross-examination, the PW-1 admitted that though the incident occurred on 19.04.2021, however, he had submitted the FIR on 20.04.2021. He also admitted that he had not seen the incident himself and has submitted the FIR on the basis of the version of his son (victim boy) and also the other person. He also stated that he had not seen any physical injuries or marks on the body of his son. He has also stated that the appellant is his close relative.

10. The PW-2, who is the victim boy, has deposed that in the evening of 19.04.2021, he went to *Darnam Tuikhur* to take bath. However, before reaching there, the appellant called him to climb on a betel nut tree and pluck the betel

nut as he used to do the same earlier also. He further deposed that thereafter, the appellant went inside his house and he followed him. Thereafter, the appellant locked the room from inside and forced him to touch his penis. He also asked him to put his penis inside his mouth and also threatened him, but he refused to do so. The PW-2 has deposed that thereafter the appellant held both of his hand tightly and make him lie down on his bed and removed his pant and underwear and thereafter, tried to insert his penis inside his anus. He further deposed that as he was feeling pain, he resisted as much as he could. He also deposed that the appellant covered his face with a pile of blanket, and he almost suffocated. However, he managed to escape from his grab and also gave him a punch out of anger. Thereafter, immediately after putting on his pants, he rushed towards the door. He has further deposed that as he opened the door, U Sanga, who was outside his house came and inquired about as to what has happened. Thereafter, the victim told everything to U Sanga.

11. During cross-examination, the victim has stated that house of the accused is located in a remote place. He also stated that he did not touch the penis of the accused as well as put it in his mouth. The victim boy also deposed that he did not shout at the time of the incident as there were no people near the place of the incident.

12. The PW-3, namely, Lalrinchhungi and the PW-4, namely, Lalhruaimawia are the seizure witness of the birth certificate of the victim boy from the possession of the first informant. During their cross-examination, they deposed that they did not go through the content of the birth certificate.

13. The PW-5, namely, Lalsangliana, has deposed that on 19.04.2021, he was out for hunting and when he reached near the house of the appellant,

he heard a voice "ana ana" expressing pain and he was under impression that the appellant was having sex with some girl, and therefore, he peeped inside the house of the appellant from outside. He saw the appellant without any clothing and he was naked. He further deposed that when he heard the voice, he came to know that it is the voice of a male person. Thereafter, he immediately ran to the house of victim and thereafter, he came there along with Pu Hrangchhuana. He further deposed that when they reached the appellant's house, he was already dressed up and the victim was also there. Thereafter, the PW-5 took victim to his house. He also deposed that the victim was weeping and thereafter, his relative came to his house and took the victim from the house of the PW-5.

14. During cross-examination, the PW-5 has deposed that when he heard some voice, he thought it to be a girl's voice and, therefore, he peeped into the house. He also admitted that he had seen the appellant having sex with the victim, but he was not knowing as to whether the victim was a boy or a girl.

15. The PW-6, namely, Hrangchhuana, has deposed that in the evening of 20.04.2021, his wife's nephew, i.e., the victim, who was staying with them, had gone out to take bath in a public pond and after some time, one of his neighbour, Lalsangliana came to their house and asked him whether minor victim was there or not. When he replied that the victim was not there in the house, he said to the PW-6 that the victim whom he had seen along with the appellant may likely be the victim of this case. The PW-6 has further deposed that thereafter, out of suspicion, he along with Lalsangliana went to the house of accused and when they reached there, they saw the appellant and minor victim inside his house. He also deposed that when he asked the victim as to

what the appellant has done to him, the victim told him that the appellant has forcibly put his penis into his mouth and also tried to penetrate his penis into his anus.

16. During cross-examination, the PW-6 had deposed that he had not seen the incident himself. He only came to know about the incident from victim.

17. The PW-7, namely, R. Vanlalrawna, has deposed that on 21.04.2021, the appellant confessed to the crime committed by him before police detailing everything as to how he committed the crime.

18. During cross-examination, the PW-7 has deposed that he had not seen the incident of sexual assault himself.

19. The PW-8, namely, Chawngthansanga, has also deposed that the victim had confessed to the commission of crime before the police.

20. The PW-9, namely, Dr. Lalchhanhima Hmar, has deposed that on 20.04.2021 at about 12:10 PM, victim was brought to the Bilkhawthlir PHC for his medical examination. After examining the victim boy, he found that the anal examination showed no signs of laceration or fissures or any injuries. He also deposed that the anal smear slide showed no spermatozoa. His cross-examination was declined.

21. The witness, namely, Vincent Lalrokima, who was listed as PW-10 in the charge-sheet was not examined by the prosecution side.

22. The PW-11, namely, Ms. Saihmingthangi Sailo, has deposed that after receipt of the FIR from the father of the victim boy, wherein the allegation of sexual assault on the son of the first informant by the present appellant was

made, the Vairengte P.S. Case No. 12/2021 was registered and investigation was initiated. She has deposed that during the course of the investigation, the witnesses were examined. The complainant and the victim were also examined and the victim was subjected to medical examination. She further deposed that she also seized the birth certificate of the victim boy. She also deposed that the victim's statement under Section 164 of the Code of Criminal Procedure, 1973 was also recorded during the course of the investigation. She also deposed that the victim gave a confessional statement and on 21.04.2021, his confessional statement was recorded, where he admitted of having sexual intercourse with the victim boy. He further deposed that the appellant has confessed that he tried to penetrate into the anus of the victim boy but he failed. The PW-11 has further deposed that after completion of the investigation, charge-sheet was laid against the present appellant under Section 4 of the POCSO Act, 2012.

23. Ms. B. Lalramhnemi, the learned Amicus Curiae for the appellant has submitted that the trial court had erred in convicting the appellant under Section 4 of the POCSO Act, 2012 without there being any cogent evidence on record regarding commission of penetrative sexual assault upon the victim boy by the present appellant.

24. She submits that the evidence of the doctor (PW-9) who examined the victim boy within twenty-four hours of the alleged incident clearly shows that on anal examination of the victim boy, he found no signs of any laceration or fissures or any other injury neither any spermatozoa was found in the anal smear slide of the victim boy, which belies the prosecution case of the appellant having committed penetrative sexual assault as defined under Section 3 of the POCSO Act, 2012.

25. She also submits that though the trial court regarded PW-5 as one of the eye-witness. However, the PW-5, namely, Lalsangliana has deposed, during his cross-examination, that he was not knowing whether the victim was a boy or a girl, from which the only inference which may be drawn is that he had not seen the incident.

26. The learned Amicus Curiae for the appellant further submits that the victim boy has also deposed during his cross-examination that he did not touch the penis of the accused as well as put the same in his mouth. She also submits that the victim boy had only stated that the appellant had tried to insert his penis inside his anus. However, nothing was stated as to whether he was able to penetrate or not. She, therefore, submits that the evidence on record is not sufficient to come to a conclusion regarding penetration of the penis of the appellant into the anus of the victim within the meaning of penetrative sexual assault as defined under Section 3(a) of the POCSO Act, 2012. Hence, she submits that the trial court was wrong in convicting the appellant under Section 6 of the POCSO Act, 2012. She submits that even the Investigating Officer has stated, during his cross-examination, that there was no eye-witness. As such, she submits that PW-5 may not be regarded as an eyewitness.

27. The learned Amicus Curiae for the appellant submits that as the offence of penetrative sexual assault as defined under Section 3 of the POCSO Act, 2012 is not made out against the appellant, he may be acquitted of charge under Section 6 of the POCSO Act by setting aside the impugned judgment and set at liberty forthwith.

28. She submits that in alternative, his conviction may be converted into lesser offence of sexual assault under Section 7 of the POCSO Act as the

prosecution side has failed to prove penetration. She submits that the conviction of the appellant may accordingly be converted to Section 8 of the POCSO Act, 2012 which prescribes maximum punishment for five years. She further submits that the petitioner has already completed more than five years behind the bars in connection with this case and as such, after converting the conviction and sentence of the appellant to a lesser offence under Section 8 of the POCSO Act, 2012, he may accordingly be set at liberty. In support of her submission, the learned Amicus Curiae for the appellant has cited a ruling of the High Court of Sikkim in the case of "***Mikal Bhujel Vs. State of Sikkim"*** reported in "***2021 SCC OnLine Sikk 43***".

29. On the other hand, Ms. Mary L. Khiangte, learned Additional Public Prosecutorhas submitted that there is no infirmity or illegality in the impugned judgment of the trial court, whereby the present appellant was convicted and sentenced under Section 6 of the POCSO Act. She submits that the evidence of victim boy clearly shows that the appellant after taking the victim inside his room, locked the room from inside and forced and make him to lie down on his bed after holding his hands tightly and after removing his underwear and tried to insert his penis inside the anus of the victim boy. She submits that the deposition of the victim boy wherein he had categorically stated that he screamed in pain, is sufficient to indicate that there was some penetration of the male organ of the appellant into the anus of victim boy, though he was unsuccessful in completely penetrating the same due to the resistance given by the victim boy.

30. The learned Additional Public Prosecutor submits that the manner in which the appellant held the hands of the victim boy and laid him down on bed

and thereafter tried to insert his penis into the anus of the victim boy clearly showed he manipulated the parts of the body of child so as to cause penetration into his anus. She submits that this act clearly falls within the meaning of penetrative sexual assault as defined in Section 3(a) as well as Section 3(c) of the POCSO Act, 2012.

31. She also submits that the testimony of PW-5 also clearly indicate that he was the eye-witness who has heard the screams of the victim boy and on his peeping inside the room of the appellant, he saw the appellant indulging in sexual act. She submits that the fact that the PW-5 could not initially identify as to whether the victim was a boy or a girl also does not affect the veracity of his testimony, as thereafter, when he came there again along with Pu Hrangchhuana, he saw the victim as well as appellant in the house of the appellant. She submits that the evidence of PW-5 is relevant under Section 6 of the Indian Evidence Act on the basis of the principle of *res gestae*, hence, she submits that the trial court was right in relying on the testimony of said witness.

32. She also submitted that the confessional statement of the appellant, which was exhibited by the Investigating Officer as Exhibit-P(7) also indicates that all the precautions were followed by the Judicial Magistrate while recording the confessional statement of the appellant, wherein he admitted his guilt. Hence, said confessional statement can also be made a basis of coming to the conclusion of guilt of the appellant under Section 6 of the POCSO Act. In support of her submission, learned Additional Public Prosecutor has cited a ruling of the Apex Court in the case of "***Surendra Koli Vs. State of U.P. and Ors.,***"reported in "***(2011) 4 SCC 80".*** She, therefore, submits that this jail appeal does not have any merit and is liable to be dismissed.

33. Mr. Lalrokunga Pautu, learned legal-aid-counsel, appearing for the respondent No. 2 has submitted that he fully agrees with the submissions made by the learned Additional Public Prosecutor and adopts her arguments. He submits that the acts of the appellant clearly falls within the definition of penetrative sexual assault as provided under Section 3(c) of the POCSO Act, 2012. He submits that to bring a case under Section 3(c) of the POCSO Act 2012, actual penetration of penis into the anus of the victim boy is not required. It only requires manipulation of any part of the body of child so as to cause penetration into anus or any part of body of child.

34. He submits that the meaning of manipulation of the body of child would include touching of their bodies. He submits that in this case, the act of appellant holding the hands of victim boy and laying him down on bed and trying to insert his penis into the anus of the victim boy is clearly an act of manipulation within the meaning of Section 3(c) of the POCSO Act, 2012. Hence, he submits that the trial court was correct in coming to the finding of guilt of the present appellant under Section 6 of the POCSO Act, 2012. In support of his submissions, learned legal-aid-counsel appearing for the respondent No. 2 has cited a ruling of Division Bench of this Court in the case of "***C. Laihlo Vs. State of Mizoram and Anr.***" (Criminal Appeal No. 11/2019, Judgment dated 22.05.2020).

35. I have considered the submissions made by learned counsel for both sides and have gone through the material on record. I have also perused the rulings cited by the learned counsel for both sides.

36. The question to be determined in this appeal is as to whether the trial court was right in convicting the appellant under Section 6 of the POCSO

Act. For that, it has to be ascertained whether the evidence on record indicates that the appellant committed penetrative sexual assault on the victim boy within the meaning of the said phrase as given in Section 3 of the POCSO Act, 2012.

37. For the sake of convenience, the provision contained in Section 3 of the POCSO Act is quoted herein below:-

> "*3. **Penetrative sexual assault**.—A person is said to commit "penetrative sexual assault" if—*
>
> *(a) he penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a child or makes the child to do so with him or any other person; or*
>
> *(b) he inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of the child or makes the child to do so with him or any other person; or*
>
> *(c) he manipulates any part of the body of the child so as to cause penetration into the vagina, urethra, anus or any part of body of the child or makes the child to do so with him or any other person; or*
>
> *(d) he applies his mouth to the penis, vagina, anus, urethra of the child or makes the child to do so to such person or any other person."*

38. Though, the medical examination of the victim boy, which was conducted within twenty-four hours of the alleged incident, failed to detect any laceration, fissures or any other injury over the anus, however, mere absence of the injury over anus would not negate the fact that the appellant had manipulated the body of the victim child so as to cause penetration of his penis into his anus.

39. A Division Bench of this court in the case of "***C. Laihlo Vs. State of***

Mizoram and Anr." (supra) has held that section 3(c) of the POCSO Act, 2012 does not require actual penetration. It has observed in the aforesaid judgment as follows:-

> "*16. While Section 3 (a) & (b) requires the penetration of the penis or the insertion of any object or part of a body, to any extent, into the vagina, mouth, urethra or anus of a child or makes the child to do so with him or any other person, Section 3 (d) requires the application of a mouth to the penis, vagina, anus, urethra of a child or makes the child to do so to such person or any other person.*
>
> *Section 3(c) on the other hand, does not require the actual penetration of a penis or insertion of any object or part of a body, to any extent, into the vagina, mouth, urethra or anus of a child. It only requires manipulation of any part of the body of a child so as to cause penetration into the vagina, urethra, anus or any part of the body of the child. If penetration of the vagina by a penis was a sine qua non for attracting Section 3(c) of the POCSO Act, 2012, there was no requirement for the Legislature to provide for Section 3(c), as Section 3(a) would have taken care of the offence. Also, if penetration was a sine qua non for attracting Section 3(a) and (c), what was the need for adding another condition besides penetration, for attracting Section 3(c), i.e., manipulation. Accordingly, we are of the view that penetration is not a sine qua non for attracting Section 3(c). However, the manipulation has to be done with the intent and actual act, to cause penetration.*
>
> *17. In the present case, the deposition of the victim girls clearly shows that the appellant attempted to have sexual intercourse with the victim girls. However, he could not do so, as he could not penetrate the victims' vaginas as per the statements and evidence of the minor victims. Section 18 POCSO Act, 2012 provides for punishment for an attempt to commit an*

offence punishable under the POCSO Act. It provides that whoever attempts tocommit any offence punishable under the Act or to cause such an offence to be committed, and in such attempt, does any Act towards the commission of the offence, shall be punished with imprisonment of any description which may extend to one-half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence or with fine or with both. In the present case, though at first blush, it appears that Section 18 could be attracted in the present case, on delving deeper into the facts of the case and the provisions of the POCSO Act, we find that Section 3(c) could also be attracted. In his attempt to have sexual intercourse, the appellant would surely have touched the vagina of the victim girls with his hands, body or penis as per evidence adduced. The question is whether the touching of the victim girls' vaginas by the appellant's penis would amount to manipulation of any part of the body of the victim girls, so as to cause penetration into the vagina.

18. The meaning of the word "manipulate" as per Webster Comprehensive Dictionary is to handle, operate or use with or as with the hands, especially with skill. In the Cambridge Advanced Learner's Dictionary, manipulate means to control something or someone to your advantage to control something using the hands. Manipulation of the body of the child would include touching their bodies. The putting of oil or massaging the children's body would also come within the meaning of manipulation. If there is touching of the child's body by any part of another person's body i.e., by the hands, nose, mouth, toes etc, to cause penetration, then the touching of the private parts of the children by the appellant's penis would also come within the meaning of manipulation as set out in Section 3(c).

In the book title Child Sexual Abuse and Protection Laws in India, written by Debarati Halder, the author Debarati Halder has written as follows:-

"Manipulating any part of the body so as to cause penetration: This particular sexual behaviour was also brought in within the arena of penetrative sexual assault on children by sec 3 (c) of the POCSO Act. It may be interesting to note that Sec. 3 of the POCSO Act uses the term "or" after each sub-section only to indicate that even when the perpetrator has committed such particular offence and not the other offences as has been mentioned in Section 3, the behaviour can fall within the meaning of penetrative sexual assault.

Linguistically, manipulating may mean "to control something using the hands" or to "control someone or something to the advantage of the manipulator unfairly or dishonestly", or "control something using hands" or "to treat a part of the body, using the hands to push back bones into the correct position or put pressure on muscles". Child sexual exploitation prevention laws of several jurisdictions have used the term "manipulation" in regard to child sexual exploitation within the scope of the first meaning as shown in the aforementioned lines. For example, a booklet titled "STOPPING THE SEXUAL EXPLOITATION OF CHILDREN AND YOUTH", published by the Ministry of Public Safety and Solicitor General of British Columbia, uses the term "manipulation" to mean how children and young persons can be seduced and manipulated to participate in physical as well as online sexual harassment of themselves. However, the later meaning provides a positive understating of the term manipulating; but it also provides a wider idea as what may constitute manipulation. A combination of the meanings offered hereby may mean that manipulating may also mean unfair and coercive handing of the body parts for the manipulators own advantage, which may include forceful pushing of the body parts, internal muscles etc. A clear reading of section 3 (c) of the POCSO Act may also show that manipulating of the body parts so as to cause penetration into the vagina, mouth, anus or urethras may mean using force on the body parts for the undue advantage of the manipulator for causing

penetration. It may be pertinent to note that POCSO Act does not use the term "rape" or "attempt to rape" or "sexual assault" to include the instances of child sexual abuses within its arena. As such, all of such sexually aggressive behaviour have been clubbed up to constitute the meaning of penetrative sexual assault on children. However, seeing from the perspective of its linguistic meaning it needs to be notedthat offences where sexual penetration have not taken place in reality, but where the perpetrator had manipulated any body part of the child in order to commit penetrative sexual offences must also be brought in under the purview of Section 3 clause (c) of the POCSO Act and also under section 5 when the nature of the offence falls under category of aggravated penetrative sexual assault."

In our endeavour to find out whether manipulation would include the touching of the men's penis with the child's vagina, we find the above extract to be relevant to the issue in hand. The attempt to penetrate the private part of the victim girls by the appellant's penis required physical contact, which in our considered view amounts to manipulation, as provided under Section 3(c) of the POCSO Act, 2012. Thus, we are in agreement with the understanding of the word 'manipulation' given in the above article by Debarati Halder in respect of Section 3(c) of the POCSO Act, 2012.

19. In the present case, the evidence adduced by the victim girls shows that the appellant had attempted to insert his penis into the vaginas of the victim girls, but he could not succeed with the penetration attempt. On considering the provision of Section 3(c) to the POCSO Act, 2012, which states that a person is set to commit penetrative sexual assault if he manipulates any part of the body of the child so as to cause penetration into the vagina, we are of the view that the attempt to insert the penis of the appellant into the vagina of the victim girls, amounts to manipulation

of the body of the child, so as to cause penetration into the vagina, as he must have used his hands or part of his body or penis to touch the body/vagina of the victim girls while attempting penetration. Thus, any attempt to penetrate into the vagina of the victims by the appellant's penis, by coming into contact with the victim's body, would come within the meaning of Section 3(c) of the POCSO Act, 2012."

40. The *ratio decidendi* of the above-mentioned judgment is binding on this Court. It was held by the Division Bench of this Court in the aforesaid judgment that any attempt to penetrate into vagina of the victim by the appellant's penis by coming into contact of victim's body would come within the meaning of Section 3(c) of the POCSO Act, 2012. By applying the same analogy to the instant case, it would appear that any attempt to penetrate into the anus of the victim boy by the appellant's penis by contacting his body would come within the meaning of penetrative sexual assault as provided in Section 3(c) of the POCSO Act, 2012.

41. This Court do not find any reason to disbelieve the testimony of the victim boy as already discussed in Paragraph No. 10 of this judgment hereinbefore wherein he has clearly stated that the appellant held both of his hand tightly and make him lie down on his bed and removed his pant and underwear and thereafter tried to insert penis inside his anus and he was also feeling pain. This testimony of the victim boy remains uncontroverted during his cross-examination.

42. Even the testimony of PW-5, wherein he has stated that he saw the appellant having sex with victim when he peeped inside the house of the appellant also remains uncontroverted.

43. Even without considering the other evidence on record, the evidence of victim boy as well as that of PW-5 are sufficient in themselves to come to conclusion that the victim boy was subjected to penetrative sexual assault by the present appellant on 19.04.2021 thereby committing offence under Section 6 of the POCSO Act, 2012.

44. For the reasons stated in the foregoing paragraphs, this court does not find any ground to interfere with the impugned judgment of the trial court, whereby the present appellant was convicted under Section 6 of the POCSO Act, 2012 and was sentenced with rigorous imprisonment for seven years and to pay a fine of Rs.20,000/- (Rupees Twenty Thousand) and in default of payment of fine to undergo rigorous imprisonment for twenty days.

45. This Court, accordingly, dismiss this appeal finding it devoid of any merit.

46. Before parting with this case, the learned Legal-aid-counsel for the respondent No. 2 has submitted that the victim boy has not yet received any compensation under the Victim Compensation Scheme. The Secretary, District Legal Service Authority, Kolasib is directed to pursue the matter and ensure payment of compensation to the victim boy as per his entitlement under relevant law as expeditiously as possible.

47. Before parting, this Court also appreciate the assistance rendered by learned Amicus Curiae for the appellant as well as the learned Legal-aid-counsel for the for the respondent No. 2.The learned Amicus Curiae for the appellant shall be paid Rs.9,000/- (Rupees Nine Thousand only) as honorarium by the Mizoram State Legal Services Authority. The Legal-aid-counsel for the

respondent No. 2 shall be paid fees as per the rates prescribed by the Mizoram Legal Services Authority in the relevant rules.

48. Send back the trial court records to the trial court along with a copy of this judgment.

JUDGE

Comparing Assistant