GAHC030003082025

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

(AIZAWL BENCH)

Criminal Appeal (J) No.32 of 2025

Sh. K. Lalawmpuia,
Son of K. Lalzarliana,
Resident of Lenchim, Saitual,
District: Mizoram, P/A Khatla South, Aizawl.

……***Appellant***

-Versus-

1. The State of Mizoram, Aizawl.

2. Sh. Lalsiamthara,
Son of P.L. Muanzova,
Resident of Saitual.

……***Respondents***

– BEFORE –
HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA

For the Appellant(s)	**:** Mr. Lalpianfela Chawngthu, Amicus Curiae.
For the Respondent(s)	**:** Ms. Linda L. Fambawl, Public Prosecutor, Mizoram for respondent No.1.
	: Mr. H. Zodinsanga, Legal Aid Counsel for respondent No.2.
Date on which judgment is reserved	**:** 12.06.2026.
Date of pronouncement of judgment	**: 16.06.2026**.

Whether the pronouncement is of the operative part of the judgment? **:** Not Applicable.

Whether the full judgment has been pronounced? **:** Yes.

JUDGMENT & ORDER (CAV)

(Ashutosh Kumar, CJ)

We have heard Mr. Lalpianfela Chawngthu, learned Amicus for the appellant; Ms. Linda L. Fambawl, learned Public Prosecutor, Mizoram for respondent No.1 and Mr. H. Zodinsanga, learned Legal Aid Counsel for respondent No.2.

2. The accused/appellant stands convicted under Section 376(3) of the Indian Penal Code, 1860 *(hereinafter to be referred as "IPC")* read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 *(hereinafter to be referred as the "*POCSO Act, 2012*")* vide judgment dated 12.12.2024 passed by the learned Presiding Officer, Fast Track Special Court, Aizawl, Mizoram and has been sentenced to undergo rigorous imprisonment for 20(twenty) years. It appears that no fine has been imposed upon the accused/appellant.

Vide the impugned judgment, it has been directed that the period of detention of the accused/ appellant in judicial custody as a trial prisoner shall be set off from the term of sentence in accordance with the provisions contained under Section 428 of the Code of Criminal Procedure, 1973 *(hereinafter to be referred as the "Cr.PC")*.

The accused/appellant is said to have raped his biological daughter.

3. The maternal uncle of the victim, who has been examined as PW-1, lodged the First Information Report (FIR) on 27.09.2020 alleging that in the night of 26.09.2020, the accused/appellant committed rape on his own daughter, a 13(thirteen) years old girl, while she along with her 3(three) sisters had been residing in a rented house along with the accused/ appellant.

Based on the afore-noted written complaint, All Women Police Station Case No.34/2020 dated 27.09.2020 was registered for investigation against the accused/appellant under Section 376(3) of the IPC read with Section 6 of the POCSO Act, 2012.

4. The Police, after investigation, submitted charge-sheet against the accused/appellant, whereupon cognizance was taken and the case was committed to the Court of Sessions for Trial.

The Trial Court, after having examined 10(ten) witnesses on behalf of the prosecution, convicted and sentenced the accused/ appellant, as aforesaid.

5. During the trial, the maternal uncle of the victim (PW-1) disclosed that his sister was married to the accused/appellant in the year 2006. From the wedlock, 4(four) daughters were born, whereafter his sister separated from her husband (accused/ appellant) in the year 2020. After separation, his sister started residing in Zokhawthar for earning her livelihood, whereas the accused/appellant along with his 4(four) daughters stayed in a rented house at Khatla South, Aizawl.

6. He further deposed that on 27.09.2020, he had received

telephonic information from his sister (mother of the victim/PW-3) that the accused/appellant had raped her daughter. After receiving the telephone call, PW-1 lodged the FIR. He also enquired from the victim, who had narrated the incident in great detail. The Police had seized the original Birth Certificate of the victim. The victim had been sent for medical examination. Her statement under Section 164 of the Cr.PC also was recorded.

7. The mother of the victim, namely, PW-3, confirmed at the trial that the victim was born on 18.09.2007. She had received a message from the victim that she had been sexually assaulted by the accused/appellant in the night of 26.09.2020. She thereafter contacted PW-1, her brother, who took the initiative to lodge the FIR. She came to Aizawl on 30.09.2020 when the Birth Certificate of the victim was taken by the Police. She further clarified before the Trial Court that she came to know about the incident as told to her by the victim herself.

8. The victim, who has been examined as PW-2, has supported the incident in great detail. After talking about her family background, she narrated before the Trial Court that while she was asleep, the accused/appellant arrived near her, disrobed her and after some foreplay without her consent and ignoring her opposition, committed rape with her. She was absolutely shocked and scared as well. In the next morning, using the telephone of her father (accused/appellant) who was asleep in the home, she messaged her mother (PW-3).

She had given her statement to the Police and also gave her statement under Section 164 of the Cr.pc, which was recorded by a

Judicial Officer.

9. A cousin sister of PW-3 (mother of the victim) has been examined as PW-4 before whose presence the Birth Certificate of the victim was produced before the Police.

10. A Constable posted at All Women Police Station (PW-5) has deposed that in his presence the underwear of the victim was seized, which she had worn at the time of the incident. Similarly, a lady Constable (PW-6) was also present when the undergarment of the victim was seized.

11. A Gynaecologist posted at Civil Hospital, Aizawl (PW-7) had medically examined the victim on 27.09.2020 at 12:00 PM after obtaining her consent. She found the victim to be well built with no physical or mental problem at the time of clinical examination, nor did she find her under the influence of any alcohol or drugs. There were no marks of violence on her body. The genital examination revealed that the hymen was torn at seven o'clock position. Since the victim had not taken bath after the incident, 3(three) swab smears of the hymen and vagina were taken which were sent to Forensic Science Laboratory for examination along with the underwear of the victim. However, from the medical examination conducted by her on the victim, she could not conclude positively whether the hymen rupture was old or fresh.

12. The accused/appellant was also medically examined on 27.09.2020 by PW-8, who confirmed that he was in a position to perform sexual activities.

13. The Investigator of the case (PW-12) disclosed before the Trial Court that from the Birth Certificate of the victim seized by him, she was found to be born on 18.09.2007. The accused/appellant was arrested on 27.09.2020. Before him, the accused/appellant had admitted his guilt. He has further deposed that DNA profiling was done with respect to the victim and the accused/appellant, which report revealed that seminal stains on the vaginal swab were of the accused/appellant. After taking into account the statement of the witnesses under Section 161 of the Cr.PC and the allegations supported by the medical and forensic reports, he submitted charge-sheet against the accused/appellant under Section 376(3) of the IPC read with Section 6 of the POCSO Act, 2012.

14. The accused/appellant in his examination under Section 313 of the Cr.PC, admitted to consuming alcohol and taking substance. In the night when the occurrence had taken place, he had consumed alcohol and two pills of methamphetamine. Though he denied that he had raped the victim and that later he had apologized to her, but answered in the affirmative when he was questioned whether he had assaulted the victim by touching her private parts and raping her, but complimented such statement by saying that he did not act intentionally. The act was committed by him in a state of intoxication.

15. Nothing has been brought on record to indicate any false accusation of the accused/ appellant. The victim is the eldest of the siblings, all of whom stayed with the accused/appellant.

16. What clearly appears from the deposition of the witnesses is

that there had been no past history of the accused/appellant ever having committed such an act with the victim or with anyone of the other siblings. The mother of the victim also had never raised any complaint in the past about any sexual misdemeanor of the accused/appellant. In fact, it was with the consent of the mother that her daughters continued to reside with the accused/ appellant when she had separated from him and had moved to a different location. But, the details of the act disclosed by the victim in her statement recorded under Sections 161 and 164 of the Cr.PC as also during the trial are consistent, without admitting of any embellishment or contradiction.

17. The allegation was also not effectively denied by the accused/appellant in any manner whatsoever. It appears that on the fateful night, the accused/ appellant lost control of his senses and committed rape of his own daughter in a state of intoxication. This was a beastly act, brooking of no sympathy of any kind.

18. Based on the aforesaid evidence, it was absolutely justified for the Trial Court to have convicted and sentenced the accused/appellant as aforesaid.

19. The judgment and order of conviction and sentence thus does not require any interference.

20. The appeal is dismissed.

21. The Trial Court Record (TCR) be sent back forthwith.

22. However, we are of the view that the victim ought to have

been given compensation. Since that has not been done by the Trial Court, we direct the Mizoram State Legal Services Authority to take necessary steps for giving a suitable compensation to the victim within a period of 3(three) months from today in accordance with law.

23. In appreciation of the assistance rendered by the learned Amicus Curiae and the learned Legal Aid Counsel representing the respondent No.2, the fees due to them shall be paid by the High Court Legal Services Authority as per the prescribed norms.

JUDGE **CHIEF JUSTICE**

Comparing Assistant