**Justice Served to 9-Year-Old: Sikkim High Court Dismisses Phurba Lepcha’s Appeal**

**Case Title:** Phurba Lepcha vs. State of Sikkim

**Case No.:** Crl.A. No.24 of 2023

**Dated on:** 5th June, 2024

**Coram:** The Hon’ble Mrs. Justice Meenakshi Madan Rai, Judge & The Hon’ble Mr. Justice Bhaskar Raj Pradhan, Judge

**Facts:**

In this case, Phurba Lepcha was accused of sexually assaulting a 9-year-old boy who used to play at his house. The victim's father reported to the police that his son came home crying, saying that Phurba had lured him into his house with sweets, then assaulted him. After an investigation, Phurba was convicted under the Protection of Children from Sexual Offences Act and sentenced to twenty years in prison. Phurba appealed the decision, arguing he was falsely accused, but the court upheld the conviction, finding the evidence against him credible.

**Issues:**

* Whether the Appellant committed the offence is the question that calls for determination in the instant matter.

**Legal Provisions:**

**Section 363 of IPC:** Punishment for kidnapping.

**Section 4 of the POCSO Act:** Deals with penetrative sexual assault, which is considered a more serious offense than sexual assault.

**Section 6 of the POCSO Act:**  Punishment for aggravated penetrative sexual assault.

**Section 377 of IPC:** Unnatural Offenses.

**Section 342 of IPC:** Deals with the punishment for wrongful confinement.

**Contentions of the Appellant:**

Phurba Lepcha, herein, the appellant, contended that he was falsely accused of sexually assaulting the 9-year-old boy. He argued that there was insufficient evidence to support the conviction, denying any wrongdoing. Phurba maintained his innocence and suggested potential ulterior motives behind the accusation, aiming to cast doubt on the credibility of the victim's father and other witnesses. Despite his appeals, the court upheld the conviction, deeming the evidence against him credible and sufficient under the Protection of Children from Sexual Offences Act.

**Contentions of the Respondent:**

The respondent, representing the prosecution or the victim's family, contended that Phurba Lepcha's conviction was justified based on the evidence presented during the trial. They asserted that the victim's testimony, supported by the father's report to the police, provided credible and compelling evidence of appellant’s guilt. Additionally, they highlighted certain corroborating evidence, such as physical evidence or witness statements, that further supported the victim's account. The respondent likely emphasized the seriousness of the offense and the need to protect children from sexual exploitation, urging the court to uphold Phurba's conviction and the accompanying sentence of twenty years in prison under the Protection of Children from Sexual Offences Act.

**Court’s Analysis & Judgement:**

Upon the critical analysis made by the hon’ble court, adjudging the arguments presented by both the parties, it was of the opinion that, the argument suggesting that the incident couldn't have occurred due to the closeness of the road to the Appellant's house lacks merit. There's no proof indicating pedestrians on the footpath, and the offense happened indoors. No inquiry was made into whether any sounds from inside the house could be heard outside. Therefore, this argument doesn't support the Appellant's case. After a thorough examination of the evidence, the hon’ble court firmly believed that the Prosecution has convincingly proven its case, leaving no room for doubt. Hence, the court concur with the Trial Court's findings. Consequently, the previous judgment and sentencing order are upheld and so the appeal is dismissed.

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**Judgement Reviewed By- Shramana Sengupta**