

**In the Court of The Judicial Magistrate, 1st Class, 3rd Court
Tamluk, Purba Medinipur.**

Case no:- GR: 1587/17

TR no:- 1202/17

CIS no:- GR/1587/2017

Under sections

354A/354C/354D/509 of

IPC and sections 66E/66C/

67/67A Information

Technology Act 2000

(Amendment 2008).

Present:-

Sri. Gautam Kumar Nag,

Judicial Magistrate,

3rd Court,

Tamluk,

Purba Medinipur.

State of West Bengal

... Prosecution

VS

Animesh Boxi @ Ani Boxi @

Ani Bokshi

... Accused

Dated: - 07/3/3018

Sri. Bivas Chatterjee ... for the prosecution.

Sri. Samir Kumar Ghorai ... for the defense.

JUDGMENT

This is a case u/s 354A/354C/354D/509 of Indian Penal Code and sections 66E/66C/67/67A Information Technology Act 2000 (Amendment 2008). The prosecution case in short is that on 21/7/17 at 00:05 hrs the defacto complainant (*name not disclosed to protect the identity of the victim and will be written as the term "victim" in this judgment*) daughter of (*name not disclosed to protect the identity of the victim and will be written as the term "victim's father" in this judgment*) lodged a written complaint to the Panskura P.S. to the

effect that she had got an affair with one Animesh Boxi @ Ani Boxi @ Ani Bokshi since last three years and in course of time she began to trust him and Animesh promised to marry her and during that period Animesh wanted some private photos of the defacto complainant though primarily she did not want to provide the same but later on being emotional and having trust she provided some private photographs of her to Animesh. After that Animesh demanded some nude photos of the defacto complainant but she denied giving such photos and then the accused pressurized her by saying that if she did not give such photos then he would upload her private photos in the social media and later in course of time the accused took private and nude photos of the defacto complainant by hacking her phone. The accused then started blackmailing her that if she did not go for outing with him then he would upload the pictures and videos in the internet and when the defacto complainant disagreed then the accused uploaded the nude pictures and videos of the defacto complainant in a porn site www.pornhub.com and mentioned the detailed URL link in the written complaint (*The detailed URL link is not mentioned in this judgment by this court to protect the privacy of the defacto complainant*). The defacto complainant also submitted the printed screen shots of the videos along with the written complaint. It has also been stated in the written complaint that Animesh used to talk with the defacto complainant and threatened her by using the mobile numbers 9733185096 and 8240136385.

Hence this case.

On the basis of such complaint Panskura police station chocked out formal FIR being no. 381 dt. 21/7/2017 u/s 354C/354D Indian Penal Code and sections 66E/67/67A Information Technology Act, 2000 (Amendment 2008) against Animesh Boxi.

Thereafter, the case was investigated by Inspector Biswajit Halder, Circle Inspector of Police, Tamluk who is the first I.O. of this case and thereafter the case was investigated by Inspector Atanu Santra of Cyber Crime Investigation Cell, CID, West Bengal the second I.O. of this case who after completion of the investigation submitted charge sheet being charge sheet no. 422/2017 dt. 01/9/2017 u/s 354A/354C/354D/509 of Indian Penal Code and sections 66E/66C/67/67A Information Technology Act 2000 (Amendment 2008) against Animesh Boxi @ Ani Boxi @ Ani Bokshi.

On 17/10/17 supplementary charge sheet being charge sheet no. 478 dated 17/10/17 u/s 354A/354C/354D/509 Indian Penal Code and 66E/66C/67/67A Information Technology Act, 2000 (as amended till date) had been submitted against the accused Animesh Boxi @ Ani Boxi @ Anibokshi by Inspector Atanu Santra of Cyber Crime Investigation Cell, CID, West Bengal.

After taking cognizance Ld. Chief Judicial Magistrate, Tamluk transferred the case record before this court for trial and disposal.

On 13/9/2017 charge was framed u/s 354A/354C/354D/509 of Indian Penal Code and sections 66E/66C/67/67A Information Technology Act 2000 (Amendment 2008) against the accused Animesh Boxi @ Ani Boxi @ Ani Bokshi to which he pleaded not guilty and claimed to be tried.

Thereafter, the prosecution started to examine c/s witnesses.

Witnesses of behalf of the prosecution:-

P.W. 1 - Victim (Defacto complainant)

P.W. 2 - Victim's father

P.W. 3 - Ganesh Mondal

P.W. 4 - Rajarshee Banerjee

P.W. 5 - Brajendra Gupta

P.W. 6 - Sandip Ghosh Dastidar

P.W. 7 - Kakali Ghosh Kundu

P.W. 8 - Partha Pradhan

P.W. 9 - Krishanu Ghosh

P.W. 10 - Gopal Das

P.W. 11 - Barun Kumar Nayek

P.W. 12 - Sanjib Kumar Dutta

P.W. 13 - Mohan Thapa

P.W. 14 - Prabir Saha

P.W. 15 - Tarun Kanti Banerjee

P.W. 16 - Gunasindhu Sahoo

P.W. 17 - Biswajit Haldar (1st I.O.)

P.W. 18 - Atanu Santra (2nd I.O.)

Exhibits:

The following documents have been marked as exhibits from the side of the prosecution:-

Exhibit 1 - Written complaint.

Exhibit 1/1 - Signature of P.W. 1 in the written complaint.

Exhibit 1/ 2 - Signature of P.W. 2 in the written complaint.

Exhibit 1/3 - Signature of P.W. 1 in the certificate u/s 65 B of Indian Evidence Act.

Exhibits 1/ 4, 1/5 and 1/6 - Printed screen shots of the pictures of P.W. 1.

Exhibit 1/7 - Endorsement of SI Modan Mohan Roy in the written complaint.

Exhibit 1/8 - Endorsement of P.W. 17 in the envelope containing screen shots and submitted with the written complaint (With objection).

Exhibit 1/9 - Signature of SI, Raban Hembram in the envelope containing screen shots and submitted with the written complaint (With objection).

Exhibit 2 - Signature of P.W. 1 in the formal FIR.

Exhibit 2/1 - Formal FIR (With objection).

Exhibit 3 - Document of police for recording of statement u/s 164 Cr PC.

Exhibit 3/1 - Signature of P.W. 1 in exhibit 3.

Exhibit 3/2 - Document which had been prepared and signed by P.W. 17 for recording to statement u/s 164 Cr. PC (With objection).

Exhibit 4 - Signature of P.W. 1 in the seizure list dt. 07/8/17.

Exhibit 4/1 - Signature of P.W. 2 in the seizure list dt. 07/8/17.

Exhibit 4/2 - Signature of P.W. 7 in the seizure list dt. 07/8/17.

Exhibit 4/3 - Signature of P.W. 18 in the seizure list dt. 07/8/17.

Exhibit 4/4 - Seizure list dt. 07/8/17.

Exhibit 5 - Signature and writing of P.W. 1 for consent to capture photos of P.W. 1 by Photography Cell, CID, West Bengal.

Exhibit 5/1 - Signature of P.W. 2 in consent form to capture photos by Photography Cell, CID, West Bengal.

Exhibit 5/2 - Signature of victim in the consent form to capture photos by Photography Cell, CID, West Bengal (With objection).

Exhibit 5/3 - Signature of P.W. 7 in the consent form to capture photos of P.W. 1 by Photography Cell, CID, West Bengal (With objection).

Exhibit 5/4 - Signature along with date of P.W. 18 in the duplicate copy of the requisition for taking photography by the Photography Bureau, CID, West Bengal.

Exhibit 5/5 - Portion of the requisition which had been prepared by P.W. 18 in the duplicate copy of the requisition for taking photography by the Photography Bureau, CID, West Bengal.

Exhibit 6 - Signature of P.W. 3 in the seizure list dt. 19/8/17.

Exhibit 6/1 - Signature of P.W. 4 in the seizure list dt. 19/8/17.

Exhibit 6/2 - Signature and date of P.W. 11 in the seizure list dt. 19/8/2017 (With objection).

Exhibit 6/3 - Signature along with date of P.W. 18 in the seizure list dated 19/8/17.

Exhibit 6/4 - Seizure list dated 19/8/17.

Exhibits 7 and 7/1 - Signatures of P.W. 3 in the informations obtained from Pornhub website in the official email id occyber.cid-wb@gov.in (With objection).

Exhibits 7/2 and 7/3 - Signatures of P.W. 4 in the informations obtained from Pornhub website in the official email id occyber.cid-wb@gov.in (With objection).

Exhibits 7/4 and 7/5 - Signatures along with date and the endorsement "computer output made by me" written by P.W. 11 in the email communications which were downloaded and printed in between official email id of CID and Pornhub Law Enforcement (With objection).

Exhibit 7/6 - Two pages of the request letter by the I.O. to the Pornhub Law Enforcement and response from Pornhub Law Enforcement (With objection).

Exhibits 7/7 and 7/8 - Signatures along with endorsement and date of P.W. 18 in exhibit 7/6 (With objection).

Exhibits 8, 8/1, 8/2 and 8/3 - Signatures of P.W. 3 in the informations obtained from Google website in the official email id occyber.cid-wb@gov.in (With objection).

Exhibits 8/4, 8/5, 8/6 and 8/7 - Signatures of P.W. 4 in the informations obtained from Google website in the official email id occyber.cid-wb@gov.in (With objection).

Exhibits 8/8 to 8/11 - Signatures along with date and the endorsement "computer output made by me" written by P.W. 11 in the email communications which were downloaded and printed in between official email id of CID and Google Law Enforcement (With objection).

Exhibit 8/12 - Two pages of the request letter by the I.O. to the Google Law Enforcement and response from Google Authority with attachment file "animeshbokshi18.AccountInfo.txt" (With objection).

Exhibit 8/13 - Two pages which contained the print out of the attachment file "animeshbokshi18.AccountInfo.txt" sent by Google Authority (With objection).

Exhibits 8/14 to 8/17 - Signatures along with endorsement and date of P.W. 18 in exhibits 8/12 and 8/13 (With objection).

Exhibit 9 - Signature of P.W. 5 in the seizure list dt. 09/8/17.

Exhibit 9/1 - Signature and date of P.W. 11 in the seizure list dt. 09/8/2017 (With objection).

Exhibit 9/2 - Signature and date of P.W. 16 in the seizure list dated 09/8/17 (With objection).

Exhibit 9/3 - Signature along with date of P.W. 18 in the seizure list dated 09/8/17.

Exhibit 9/4 - Seizure list dated 09/8/17.

Exhibit 10 - Admission form of Animesh Boxi (With objection).

Exhibit 10/1 - Signature and date of P.W. 11 in the original B. Tech admission form session 2014-15 of Budge Budge Institute of Technology of Animesh Boxi (With objection).

Exhibit 10/2 - Signature and office seal of P.W. 15 in exhibit 10 (With objection).

Exhibit 10/3 - Signature of P.W. 16 in exhibit 10 (With objection).

Exhibit 10/4 - Signature and endorsement of P.W. 18 in exhibit 10 (With objection).

Exhibit 10/5 - Endorsement from the Registrar Budge Budge Institute of Technology in exhibit 10 (With objection).

Exhibit 10/6 - Encircled part in exhibit 10 which P.W. 18 had marked exhibit I.

Exhibit 11 - Signature of P.W. 5 in the forwarding letter dt. 09/8/17 (With objection).

Exhibit 11/1 - Signature of Tapas Satapathi in the forwarding letter dt. 09/8/17 (With objection).

Exhibit 11/2 - Forwarding letter dt. 09/8/17 (With objection).

Exhibit 11/3 - Signature and date of P.W. 11 in the authorization letter issued by Tapas Satapati, Registrar of Budge Budge Institute of Technology (With objection).

Exhibit 11/14 - Signature of P.W. 16 in exhibit 11/2 (With objection).

Exhibit 11/5 - Signature and endorsement of P.W. 18 in exhibit 11/2 (With objection).

Exhibit 12 - Signature of P.W. 5 in the seizure list dt. 04/9/17.

Exhibits 12/1 and 12/2 - Signatures along with date of P.W. 11 in the seizure list dt. 04/9/17.

Exhibits 12/3 and 12/4 - Signatures along with dates of P.W. 16 in the seizure list dated 04/9/17 (With objection).

Exhibit 12/5 - Signature along with date of P.W. 18 in the seizure list dated 04/9/17 (With objection).

Exhibit 12/6 - Seizure list dated 04/9/17 (With objection).

Exhibit 12/7 - Signature along with date of P.W. 18 on the second page in the seizure list dated 04/9/17 (With objection).

Exhibits 13 and 13/1 - Signatures of P.W. 5 in the answer paper of second internal examination of Animesh Boxi (With objection).

Exhibit 13/2 - Certificate and signature of Tapas Satapathi in the answer paper of second internal examination of Animesh Boxi (With objection).

Exhibit 13/3 - Original answer paper of second internal examination of Animesh Boxi (With objection).

Exhibits 13/4 and 13/5 - Signatures along with date of P.W. 11 in the first two pages in the original answer sheet of second year Internal Exam, B. Tech Budge Budge Institute of Technology of Animesh Boxi (With objection).

Exhibits 13/6 and 13/7 - Signatures and office seal of P.W. 15 in exhibit 13/3 (With objection).

Exhibits 13/8 and 13/9 - Signatures along with dates of P.W. 16 in exhibit 13/3 (With objection).

Exhibits 13/10 and 13/11 - Signatures along with endorsement and date of P.W. 18 in exhibit 13/3 (With objection).

Exhibits 13/12 and 13/13 - Encircled parts in exhibit 13/3 which P.W. 18 had marked exhibits J and J1.

Exhibit 14 - Signature of P.W. 5 in the original membership form of Central Library of Budge Budge Institute of Technology dt. 12/8/14 (With objection).

Exhibit 14/1 - Certificate and signature of Tapas Satapathi in the original membership form of Central Library of Budge Budge Institute of Technology dt. 12/8/2014 (With objection).

Exhibit 14/2 - Original membership form of Central Library of Budge Budge Institute of Technology dt. 12/8/2014 (With objection).

Exhibit 14/3 - Signature along with date of P.W. 11 in the original membership form of Central Library of Budge Budge Institute of Technology (With objection).

Exhibit 14/4 - Signature and office seal of P.W. 15 in exhibit 14/2 (With objection).

Exhibit 14/5 - Signature along with date of P.W. 16 in exhibit 14/2 (With objection).

Exhibit 14/6 - Signature along with endorsement and date of P.W. 18 in exhibit 14/2 (With objection).

Exhibit 14/7 - Encircled part in exhibit 14/2 which P.W. 18 had marked exhibit K.

Exhibit 15 - Signature of P.W. 5 in the Book Bank Card of Central Library of Budge Budge Institute of Technology of Animesh Boxi (With objection).

Exhibit 15/1 - Certificate and signature of Tapas Satapathi in the Book Bank Card of Central Library of Budge Budge Institute of Technology of Animesh Boxi (With objection).

Exhibit 15/2 - Original Book Bank Card of Central Library of Budge Budge Institute of Technology of Animesh Boxi (With objection).

Exhibit 15/3 - Signature along with date of P.W. 11 in the original Book Bank Card of Central Library vide ME number 1410 (With objection).

Exhibit 15/4 - Signature and office seal of P.W. 15 in exhibit 15/2 (With objection).

Exhibit 15/5 - Signature along with date of P.W. 16 in exhibit 15/2 (With objection).

Exhibit 15/6 - Signature along with endorsement and date of P.W. 18 in exhibit 15/2 (With objection).

Exhibit 15/7 - Encircled part in exhibit 15/2 which P.W. 18 had marked exhibit L.

Exhibit 16 - Signature of P.W. 5 in the Original Book vide no. 12049 of Budge Budge Institute of Technology of Animesh Boxi (With objection).

Exhibit 16/1 - Certificate and signature of Tapas Satapathi in the Original Book card vide no. 12049 of Budge Budge Institute of Technology of Animesh Boxi (With objection).

Exhibit 16/2 - Book card vide no. 12049 of Budge Budge Institute of Technology of Animesh Boxi (With objection).

Exhibit 16/3 - Signature along with date of P.W. 11 in the Book Card of Budge Budge Institute of Technology (With objection).

Exhibit 16/4 - Signature and office seal of P.W. 15 in exhibit 16/2 (With objection).

Exhibit 16/5 - Signature along with date of P.W. 16 in exhibit 16/2 (With objection).

Exhibit 16/6 - Signature along with endorsement and date of P.W. 18 in exhibit 16/2 (With objection).

Exhibit 16/7 - Encircled part in exhibit 16/2 which P.W. 18 had marked exhibit M.

Exhibit 17 - Signature of P.W. 5 in the covering letter dt. 04/9/2017 (With objection).

Exhibit 17/1 - Signature of Tapas Satapathi in the covering letter dt. 04/9/2017 (With objection).

Exhibit 17/2 - Covering letter dt. 04/9/2017 (With objection).

Exhibit 17/3 - Signature along with date of P.W. 11 in the authorised letter of Registrar Tapas Satpati who had authorised the signature of Brajendra Gupta (With objection).

Exhibit 17/4 - Signature along with date of P.W. 16 in exhibit 17/2 (With objection).

Exhibit 17/5 - Endorsement by P.W. 18 in exhibit 17/2 (With objection).

Exhibit 18 and 18/1 - Signatures of P.W. 6 in the seizure list dt. 29/7/17.

Exhibit 18/2 and 18/3 - Signatures of Sukanta Roy in the seizure list dt. 29/7/17 (With objection).

Exhibits 18/4 and 18/5 - Signatures of Atanu Santra in the seizure list dated 29/7/17 (With objection).

Exhibit 18/6 - Seizure list dated 29/7/17 prepared by Atanu Santra (With objection).

Exhibit 19 and 19/1 - Signatures of P.W. 6 in the Disclosure Memo (With objection).

Exhibit 19/2 and 19/3 - Signatures of Sukanta Roy in the Disclosure Memo (With objection).

Exhibits 19/4 and 19/5 - Signatures of P.W. 18 in the Disclosure memo (With objection).

Exhibit 19/6 - Disclosure memo containing two pages dt. 29/7/17 (With objection).

Exhibit 19/7 - Red ink portion marked by Ld. Special PP in the Disclosure memo dt. 29/7/17 (With objection).

Exhibit 20 - Signatures of P.W. 7 in the Requisition (With objection).

Exhibit 20/1 - Requisition prepared and signed by P.W. 18 addressed to Kakali Ghosh Kundu to record the statement of the victim girl (With objection).

Exhibit 21 - Handwriting, signature and date of O/C Gopal Nath in the requisition (With objection).

Exhibit 21/2 - Requisition which was sent to O/C, Photography Bureau, CID, West Bengal by P.W. 18 (With objection).

Exhibit 22 to 22/8 - Signatures along with date of P.W. 8 in nine photos of victim (With objection).

Exhibit 22/9 to 22/17 - Signatures along with date of P.W. 9 in nine photos of victim (With objection).

Exhibit 22/18 to 22/26 - Nine photos of the victim (With objection).

Exhibit 22/27 to 22/35 - Signatures along with date of Jyotirmoy Biswas in nine photos of victim (With objection).

Exhibits 22/36 to 22/44 - Signatures and date of P.W. 11 on the back side of the nine photos printed by Krishanu Ghosh (With objection).

Exhibit 22/45 - Signature of Dr. P. Paul Ramesh in the envelope where it is written CFSL(K)/EE/2017/FED/WB/1548/P-3184.

Exhibit 22/46 - Envelope where CFSL(K)/EE/2017/FED/WB/1548/P-3184 is written.

Exhibit 22/47 - Signature of L. Nato Singh in the envelope which contained EXBT: RPQ1 to RPQ9.

Exhibit 22/48 - Envelope which contained EXBT RPQ1 to RPQ9.

Exhibit 22/48 (A) - Signature of Dr. P. Paul Ramesh and seal in the envelope which contained EXBT: RPQ1 to RPQ9.

Exhibits 22/49 to 22/57 - Signatures of Dr. P. Paul Ramesh and seal written examiner, CFSL, Kolkata in exhibits 22/18 to 22/26.

Exhibits 22/58 to 22/66 - Signatures of L. Nato Singh in exhibits 22/18 to 22/26.

Exhibit 22/67 - Label which had been prepared and pasted by P.W. 18 in the envelope that contained exhibits 22/18 to 22/26 (With objection).

Exhibits 22/68 to 22/76 - Signatures of P.W. 18 in exhibits 22/18 to 22/26.

Exhibit 22/77 - Signature of L. Nato Singh in exhibit 22/67.

Exhibit 23 to 23/1 - Signatures of P.W. 8 in the certificate u/s 65 B of the Indian Evidence Act which was given by Krishanu Ghosh (With objection).

Exhibit 23/2 to 23/3 - Signatures along with date of P.W. 9 in the certificate u/s 65 B of the Indian Evidence Act issued by P.W. 9 (With objection).

Exhibit 23/4 - Certificate u/s 65 B of the Indian Evidence Act issued by P.W. 9 (With objection).

Exhibit 24 - Signature of P.W. 9 in the seizure list dt. 07/8/17.

Exhibit 24/1 - Signature of Jyotirmoy Biswas in the seizure list dt. 07/8/17 (With objection).

Exhibit 24/2 - Signature and date of P.W. 11 in the seizure list dt. 07/8/2017 (With objection).

Exhibit 24/3 - Signature along with date of P.W. 18 in the seizure list dated 07/8/17.

Exhibit 24/4 - Seizure list dated 07/8/17.

Exhibit 25 - Signature and date of P.W. 10 in the seizure list dt. 22/7/2017 (With objection).

Exhibit 25/1 - Signatures and date of Uttam Dolui in the seizure list dt. 22/7/2017 (With objection).

Exhibits 25/2 and 25/3 - Signatures and date of P.W. 11 in the seizure list dt. 22/7/2017 (With objection).

Exhibits 25/4 and 25/5 - Signatures of P.W. 18 in the seizure list dt. 22/7/17.

Exhibit 25/6 - Seizure list dt. 22/7/17.

Exhibits 26, 26/1 and 26/2 - Signatures and date of P.W. 10 in the Disclosure memo (With objection).

Exhibits 26/3, 26/4 and 26/5 - Signatures and date of Uttam Dolui in the Disclosure memo (With objection).

Exhibits 26/6, 26/7 and 26/8 - Signatures of P.W. 18 in the Disclosure memo (With objection).

Exhibit 26/9 - Disclosure memo containing three pages (With objection).

Exhibit 26/10 - Red ink portion marked by Ld. Special PP in the Disclosure memo.

Exhibit 26/11 - Red ink portion marked by Ld. Special PP in the Disclosure memo.

Exhibits 27 and 27/5 - Signatures and date of P.W. 11 in the certificate u/s 65 B of the Indian Evidence Act and screen shots with specific URL of the videos downloaded (With objection).

Exhibits 27/6 to 27/11 - Certificate u/s 65 B of the Indian Evidence Act and screen shots with specific URL of the videos downloaded and prepared by P.W. 11 (With objection).

Exhibit 28 - Signature along with date of P.W. 11 in the certificate u/s 65 B of the Indian Evidence Act.

Exhibit 28/1 - Certificate u/s 65 B of the Indian Evidence Act issued by P.W. 11 (With objection).

Exhibit 29 - Forwarding letter issued by P.W. 12 (With Objection).

Exhibit 29/1 - Signature of P.W. 12 in the forwarding letter (With Objection).

Exhibit 30 - Transaction enquiry containing 7 pages in respect of account number 1358010209038 (With Objection).

Exhibit 31 - Certificate issued by P.W. 12 u/s 65 B of Indian Evidence Act containing two pages (With Objection).

Exhibit 31/1 - Signature of P.W. 12 in the certificate u/s 65 B of Indian Evidence Act (With Objection).

Exhibit 32 - Certificate issued by P.W. 12 u/s 2A(a) of the Banker's Books Evidence Act (With Objection).

Exhibit 32/1 - Signature of P.W. 12 in the certificate u/s 2A(a) of the Banker's Books Evidence Act (With Objection).

Exhibit 33 - Letter issued by P.W. 13 in Vodafone letter head (With Objection).

Exhibit 33/1 - Signature of P.W. 13 in the letter of Vodafone letter head (With Objection).

Exhibit 33/2 - Signature and endorsement along with date of P.W. 18 in exhibit 33 (With objection).

Exhibit 34 - Certificate issued by P.W. 13 u/s 65 B of Indian Evidence Act (With Objection).

Exhibit 34/1 - Signature of P.W. 13 in the certificate u/s 65 B of Indian Evidence Act (With Objection).

Exhibit 34/2 - Signature and endorsement along with date of P.W. 18 in exhibit 34 (With objection).

Exhibit 35 - Original CAF in the name of Barnali Baksi of mobile number 9733185096 (With Objection).

Exhibit 35/1 - Signature of distributor point namely Arati Mobile Counter in CAF (With Objection).

Exhibit 35/2 - Signature of distributor point namely Arati Mobile Counter in the proof of identity of Barnali Baksi (With Objection).

Exhibit 36 - Signature of P.W. 14 in the seizure list dt. 21/7/17 (With objection).

Exhibit 36/1 - Seizure list dt. 21/7/17 (With objection).

Exhibit 37 - Expert report submitted by P.W. 15 (With objection).

Exhibits 37/1, 37/2 and 37/3 - Signatures along with dates and office seal of P.W. 15 in exhibit 37 (With objection).

Exhibit 38 - Forwarding letter of Director, CFSL, Kolkata prepared and signed by him.

Exhibit 39 - Original Forensic Examination Report in 5 pages submitted by Dr. P. Paul Ramesh prepared and signed by him including another page containing 5 photos written CFSL (K) / EE/ 2017/ FED/WB/1548/P-3184 and also written Photo-1 and on the fifth page and there is written Specimen seal and a "Gala" where it is written CFSL, Kol and in a circle PHY is written.

Exhibits 39/1 to 39/6 - Signatures and date along with seal of Dr. P. Paul Ramesh.

Exhibit 40 - Forwarding letter of Director, CFSL, Kolkata prepared and signed by him.

Exhibit 41 - Original Forensic Examination Report in 5 pages submitted by L. Nato Singh which is prepared and signed by him

including another two pages with written Annexure MBQ1 - SEA and Annexure MBQ1 - D1 and on the fifth page and there is written Specimen seal and a "Gala" where it is written Govt Examiner.

Exhibits 41/1 to 41/5 - Signatures and seal of L. Nato Singh.

Exhibits 41/6 to 41/7 - Signatures L. Nato Singh in MBQ1 - SEA and Annexure MBQ1 - D1.

Exhibit 42 - Certificate u/s 65B of the Indian Evidence Act containing three pages prepared by P.W. 16 (With objection).

Exhibits 42/1, 42/2 and 42/3 - Signatures along with date of P.W. 16 in exhibit 42 (With objection).

Exhibit 43 - Screen shot of the the I.P. search result of 47.15.15.236 from the website traceip.bharatiyamobile.com and signature of P.W. 16 along with date into it (With objection).

Exhibit 44 - Print out of Reliance Jio reply regarding IP allotment details of the I.P. containing two pages which P.W. 16 printed the same and signed into it and put date into it (With objection).

Exhibit 45 - Print out copy in excel format of IPDR which was the attachment copy of the reply of Reliance Jio which P.W. 16 printed the same and signed into it and put date into it (With objection).

Exhibit 46 - Screen shot copy of Pornhub.com converted to IP address result using domaintoipconverter.com which P.W. 16 had prepared the screen shot and signed into it and put date into it (With objection).

Exhibit 47 - Screen shot print out copy of subscriber details of mobile no. 8240136385 which P.W. 16 had collected from the monitoring cell with the help of monitoring cell, CID, and P.W. 16 had signed into it and put date into it (With objection).

Exhibit 48 - Certificate u/s 65 B of the Indian Evidence Act containing two pages to prove the authenticity and P.W. 16 had prepared it and signed into it (With objection).

Exhibit 49 - The red line mark on the statement of the accused (With objection).

Exhibit 50 - Notice u/s 91 Cr. PC which was sent to Google Authority by P.W. 18 (With objection).

Exhibit 51 - Notice u/s 91 Cr. PC which was sent to Competent Authority, www.pornhub.com by P.W. 18 (With objection).

Exhibit 52 - Certified copy of the order to access email id occyber.cid-wb@gov.in by SI Barun Kumar Nayek from the period

01.08.17 to 20.08.17 which has been certified by Rajarshi Banerjee, Officer in Charge, Cyber Crime Investigation Cell, CID, West Bengal (With objection).

Exhibit 53 - Duplicate form of CFSL containing eight pages.

Exhibit 54 - Receipt from CFSL, Kolkata of the case file no. CFSL(K)/EE/2017/FED/WB/1548 dt. 21/8/17 (With objection).

Exhibit 55 - Email printout of the information received from email id legal@pornhub.com (With objection).

Exhibit 56 - Certificate u/s 65 B of the Indian Evidence Act to authenticate exhibit 55 (With objection).

Exhibit 57 - Signature and date of constable Subhrajit Santra in the seizure list dated 16/10/17 (With objection).

Exhibit 57/1 - Signature and date of Barun Kumar Nayek in the seizure list dated 16/10/17 (With objection).

Exhibit 57/2 - Signature of Jayanta Sarkar in the seizure list dated 16/10/17 (With objection).

Exhibit 57/3 - Signature and date of P.W. 18 in the seizure list dated 16/10/17 (With objection).

Exhibit 57/4 - Seizure list dated 16/10/17 (With objection).

Material Exhibits:

The following articles have been marked as material exhibits from the side of the prosecution:-

Mat exhibit 1 - Samsung mobile phone of P.W. 1.

Mat exhibit 1/1 - Signature of P.W. 1 in the envelope which contained mat exhibit 1.

Mat exhibit 1/2 - Signature of P.W. 2 in the envelope which contained mat exhibit 1.

Mat exhibit 1/3 - Signature of P.W. 7 in the envelope which contained Mat exhibit 1.

Mat exhibit 1/4 - Signature along with date of P.W. 18 in the label pasted in that envelope which contained mat exhibit 1.

Mat exhibit 1/5 - Label in the envelope which contained mat exhibit 1.

Mat exhibit 2 - Signature of P.W. 6 in the D.V.D. (With objection).

Mat exhibit 2/1 - Signature of Sukanta Roy in the D.V.D. (With objection).

Mat exhibit 2/2 - Signature and seal of Dr. P. Paul Ramesh in the envelope where EXBT: DVDQ3 is written.

Mat exhibit 2/3 - Signature of L. Nato Singh in the envelope where EXBT: DVDQ3 is written.

Mat exhibit 2/4 - Envelope where EXBT: DVDQ3 is written.

Mat exhibit 2/5 - Signature of Dr. P. Paul Ramesh along with seal in the DVD which contained in the envelope mat exhibit 2/4.

Mat exhibit 2/6 - Signature of Dr. P. Paul Ramesh with seal in the envelope where Exhibit E is written.

Mat exhibit 2/7 - Envelope where Exhibit E is written.

Mat exhibit 2/8 - CD containing screen shots burnt by P.W. 16 (With objection).

Mat exhibit 2/9 - Signature of the I.O. in mat exhibit 2/9 (With objection).

Mat exhibit 2/10 - Label on the DVD case which contained mat exhibit 2/8 (With objection).

Mat exhibit 2/11 - Signature of L. Nato Singh in the label in mat exhibit 2/10.

Mat exhibit 2/12 - Signature of L. Nato Singh in mat exhibit 2/8.

Mat exhibit 3 - Signature and date of P.W. 8 in the C.D. (With objection the word signature).

Mat exhibit 3/1 - Signature and date of P.W. 9 in the C.D. (With objection).

Mat exhibit 3/2 - C.D. which had been burnt by P.W. 9 (With objection).

Mat exhibit 3/3 - Signature and date of Jyotirmoy Biswas in the C.D. (With objection).

Mat exhibit 3/4 - Signature and date of P.W. 11 in the C.D. which had been burnt by Krishanu Ghosh (With objection).

Mat exhibit 3/5 - Signature of Dr. P. Paul Ramesh in the envelope where EXBT: CDQ1 is written.

Mat exhibit 3/6 - Signature of L. Nato Singh in the envelope where EXBT: CDQ1 is written.

Mat exhibit 3/7 - Envelope where EXBT: CDQ1 is written.

Mat exhibit 3/8 - Signature of Dr. P. Paul Ramesh along with seal in the mat exhibit 3/2.

Mat exhibit 3/9 - Signature of Dr. P. Paul Ramesh with seal in the envelope where Exhibit H is written.

Mat exhibit 3/10 - Envelope where Exhibit H is written.

Mat exhibit 3/11 - Label on the CD case which contained mat exhibit 3/2 (With objection).

Mat exhibit 3/12 - Signature along with date of P.W. 18 in mat exhibit 3/2 (With objection).

Mat exhibit 3/13 - Signature of L. Nato Singh in the label in mat exhibit 3/11.

Mat exhibit 3/14 - Signature of L. Nato Singh in mat exhibit 3/2.

Mat exhibit 4 - Signature and date of P.W. 10 in the DVD which contained in the sealed envelop Exhibit C (With objection).

Mat exhibit 4/1 - Signature and date of Uttam Dolui in the DVD which contained in the sealed envelop Exhibit C (With objection).

Mat exhibit 4/2 - Signature and date of P.W. 11 in the DVD which contained in the sealed envelop Exhibit C (With objection).

Mat exhibit 4/3 - DVD which was inside the sealed envelop Exhibit C (With objection).

Mat exhibit 4/4 - Signature of Dr. P. Paul Ramesh in the envelope where EXBT: DVDQ2 is written.

Mat exhibit 4/5 - Signature of L. Nato Singh in the envelope where EXBT: DVDQ2 is written.

Mat exhibit 4/6 - Envelope where EXBT: DVDQ2 is written.

Mat exhibit 4/7 - Signature of Dr. P. Paul Ramesh in mat exhibit 4/3.

Mat exhibit 4/8 - Signature of Dr. P. Paul Ramesh with seal in the envelope where Exhibit C is written.

Mat exhibit 4/9 - Envelope where Exhibit C is written.

Mat exhibit 4/10 - Label on the DVD case which contained mat exhibit 4/3. (With objection).

Mat exhibit 4/11 - Signature of P.W. 18 in mat exhibit 4/3. (With objection).

Mat exhibit 4/12 - Signature of L. Nato Singh in the label in mat exhibit 4/10.

Mat exhibit 4/13 - Signature of L. Nato Singh in mat exhibit 4/3.

Mat exhibit 5 - Signature and date of P.W. 10 in the DVD which contained in the sealed envelop Exhibit D (With objection).

Mat exhibit 5/1 - Signature and date of Uttam Dolui in the DVD which contained in the sealed envelop Exhibit D (With objection).

Mat exhibit 5/2 - Signature and date of P.W. 11 in the DVD which contained in the sealed envelop Exhibit D (With objection).

Mat exhibit 5/3 - DVD which was inside the sealed envelop Exhibit D (With objection).

Mat exhibit 5/4 - Signature of Dr. P. Paul Ramesh in the envelope where EXBT: DVDQ1 is written.

Mat exhibit 5/5 - Signature of L. Nato Singh in the envelope where EXBT: DVDQ1 is written.

Mat exhibit 5/6 - Envelope where EXBT: DVDQ1 is written.

Mat exhibit 5/7 - Signature of Dr. P. Paul Ramesh with seal in mat exhibit 5/3.

Mat exhibit 5/8 - Signature of Dr. P. Paul Ramesh with seal in the envelope where Exhibit D is written.

Mat exhibit 5/9 - Envelope where Exhibit D is written.

Mat exhibit 5/10 - Label on the DVD case which contained mat exhibit 5/3. (With objection).

Mat exhibit 5/11 - Signature of P.W. 18 in mat exhibit 5/3. (With objection).

Mat exhibit 5/12 - Signature of L. Nato Singh in the label in mat exhibit 5/10.

Mat exhibit 5/13 - Signature of L. Nato Singh in mat exhibit 5/3.

Mat exhibit 6 - CD containing IPDR data which was prepared by P.W. 13 (With Objection).

Mat exhibit 6/1 - Signature of P.W. 13 in the CD containing IPDR data (With Objection).

Mat exhibit 7 - Hp laptop (With objection).

Mat exhibit 8 - Mobile Phone (With objection).

Mat exhibit 8/1 - Charger of Mobile Phone (With objection).

Mat exhibit 8/2 - Signature of L. Nato Singh in the envelope where MBQ1, SCQ1, SCQ2, MCQ1, charger (01) is written.

Mat exhibit 8/3 - Envelope which contained mat exhibits 8 and 8/1.

Mat exhibit 8/4 - Signature of L. Nato Singh in mat exhibit 8.

Mat exhibit 8/5 - Vodafone with sim ICCID number 899167162378001833854 (With objection).

Mat exhibit 8/6 - Jio sim card and "K1" written into it (With objection).

Mat exhibit 8/7 - SD card 16 GB Sandisk Ultra (With objection).

Mat exhibit 8/8 - Envelope which is typed and signed by P.W. 18 (With objection).

Mat Exhibit 8/9 – Signature of L. Nato Singh in mat exhibit 8/8.

After closure of the prosecution evidence accused person was examined u/s 313 Cr. PC. As no defence witnesses were adduced the case was heard in argument as placed by both sides.

POINTS FOR DETERMINATION

- a) Whether the prosecution has been able to prove the offence u/s 354A/354C/354D/509 of IPC and sections 66E/66C/67/67A IT Act 2000 (Amendment 2008) against the accused person beyond the shadow of all reasonable doubts?

DECISION WITH REASONS

Having heard both sides and after perusal of the materials on record it appears that P.W. 1 is the defacto complainant in this case.

Now let us scan the evidences from the case record.

P.W. 1 has testified before this court and stated her father's name along with the nick name (*name of the victim's father is not disclosed in this judgment*) and stated that she knows Ani Boxi @ Animesh Bokshi @ Animesh Boxi and had got friendly relationship with the accused for three years ago and then had got close relationship for many days but at present she had no relationship with him and as they came close to each other so the accused demanded from her some personal photos of her and she did not agree to give him any pictures but then the accused used to tell her sentimental words and used to show her annoyance and as she used to love him and believed him and so she gave the accused personal moments pictures and then the accused used to tell her to go for outing with him but she did not agree to this and as she did not go for outing with him so the accused told him that he would publish her personal private photos in the social media and then P.W. 1 realised that the guy was not good and was blackmailing her and creating pressure upon her. P.W. 1 further stated that she took some nude pictures and video of her in her mobile phone as the accused told her to do so and as the accused wanted to see it and demanded it from her and as she used to love the accused and believed him very much and had not given those nude pictures and video of her to the accused and when she had got good relationship with him then the accused used to see her mobile phone and she had got her password written in her diary and he took her password from her diary and opened her phone and took away her nude pictures and videos from the "chip" of her mobile

and she came to know about it from him as he used to tell her to go for outing with him but as she refused then he told her that he had got her personal nude pictures and videos with him and he took it when he used to look at her mobile phone and also took the password of her mobile which she wrote down in the diary without her permission. P.W. 1 further stated in her examination in chief that few days later her "khurtuto" brother (*name of the victim's brother is not disclosed*) told her that while searching her surname (*surname not disclosed*) in Google then it displayed her nude pictures and videos and the website name is pornhub and the link is big but the last three digits of the said link is 224 and in that video of the website it is written *victim's name daughter of victim's father name along with the nickname of her father* and then she searched on Google with her surname (*surname not disclosed*) and then she saw it in pornhub and then she took screen shots of it and with her father came to the police station on 21/7/17 and as her mental condition was not well so she dictated and her father wrote the written complaint and then she read it and after understanding its content put her signature thereon and P.W. 1 also stated that the written complaint contained the signature of her father. P.W. 1 identified the written complaint (exhibit 1) her signature into it (exhibit 1/1), and her signature in the formal FIR (exhibit 2). P.W. 1 also stated that she had also given the printed screen shots of the video to the P.S. and had seen the video in the website pornhub in the profile of Anibokshi and she was examined by one woman police and her statement was recorded by that woman police in the P.S. and police told her to give her statement before the Magistrate but she had written to the police that as her mental condition was not well so she would not give her statement. P.W. 1 further stated that on 04/8/17 she was returning home from her Basic Training college and then two unknown men came and threatened her and told her to withdraw the case against Animesh and she would get money for it and she informed about this incident to the local P.S. in writing. P.W. 1 further stated that on 07/8/17 she came to CID, Cyber Cell, Bhawani Bhawan with her father and she told the incident to them and they seized her mobile phone along with two sim cards and identified her signature in the seizure list (exhibit 4). P.W. 1 also identified her Samsung mobile phone which she had given to the CID for the purpose of investigation (mat exhibit 1) and identified her

signature on the label of the envelope (mat exhibit 1/1). P.W. 1 further stated that she was examined by one woman police namely Kakali mam and she had damaged the chip as because her pictures were available in the social media and she was not mentally well and she was afraid, so she could not give the chip to the police. P.W. 1 further stated that for the purpose of investigation she gave consent to the Photography Cell, CID, West Bengal by writing and also identified it (exhibit 5), identified seven pages containing the printed screen shots of her nude personal photos and identified the printed screen shots containing three pages (exhibits 1/4, 1/5 and 1/6) of her nude pictures which she had downloaded from pornhub and later on taken screen shots in her laptop and taken print out of the same and had submitted to the P.S. along with her written complaint and had signed on each and every pages of three pages along with date 21/7/17 and stated that the name of Anibokshi profile is showing in page numbers 2 and 3 but it is not showing in page number 1. P.W. 1 also stated that she had submitted a certificate which she had given to the P.S. on 01/9/17 along with her statement and it bears her signature (exhibit 1/3) to prove the authenticity of the three screen shots (exhibits 1/4, 1/5 and 1/6) and she had put her signature after reading it. P.W. 1 further stated in her examination -in- chief that the link in the website pornhub is still available and anyone could see it live and it has not yet been deleted and it could be seen by searching the term (*victim's name*) and if court gave her the opportunity then she could show it before the court today that the link containing her video is still available with her name and her father's name and that her personal nude photos are spreading every where in this world and it is now impossible for her to live in this world.

After Ld. Special PP made arrangement for internet access in the court room through mobile phone wifi hotspot and as the Ld. Lawyer for the accused raised no objection the website pornhub is opened which contained the link of the video and P.W. 1 stated that this was her video with her name and her father's name.

P.W. 2 is the father of the defacto complainant (P.W. 1) who testified before this court that the victim is her daughter and while his daughter was studying in the college then there was love affairs in between her daughter and Animesh Boxi and due to this love affair the accused had stolen some nude pictures of her daughter from her

mobile phone and then the accused had uploaded those nude pictures of her daughter in different porn websites and he came to know about this from his bhaipo (nephew) who came to their home and told them and after hearing this her daughter was broken and came to know from his daughter as well. P.W. 2 further stated that with her daughter he went to the P.S. in the evening time of 21/7/2017 and as her daughter was broken so she dictated and he had written the complaint and it was read over to his daughter and her daughter had also seen it and then her daughter put her signature into it. P.W. 2 identified the written complaint (exhibit 1) and stated that it was written as per her daughter's instructions and it bears the signature of her daughter and identified his signature (exhibit 1/2) on the written complaint. P.W. 2 also stated that he was examined by the police. P.W. 2 further stated that on 07/8/17 he went to CID office along with her daughter and there the mobile phone of her daughter was seized by the CID and he had signed on the seizure list and knew the contents of the seizure list and identified his signature (exhibit 4/1). P.W. 2 identified his signature on the label (mat exhibit 1/2) and the mobile phone of his daughter. P.W. 2 also stated that in the CID office women police officer examined her daughter and took her daughter's consent for taking her pictures and then her daughter and he had given the consent to it and identified his signature (exhibit 5/1) on the paper for giving consent and also identified the signature of her daughter (exhibit 5/2). P.W. 2 identified the pictures of her daughter in exhibits 1/4, 1/5 and 1/6.

P.W. 3 happens to be the constable number 573 posted at CID, Cyber Crime Cell who stated before this court that he knew the incident of 19/8/17 and on that day Barun Kumar Nayek (P.W. 11) Sub Inspector of Cyber Crime Cell downloaded the email data which had been received in the official email of CID, Cyber Crime Cell and the official email address is occyber.cid-wb@gov.in from Google and Pornhub and the case reference for which the data had been downloaded is in connection with Panskura P.S. case No. 381/17 and then the downloaded articles had been printed and Barun babu gave the said document to the I.O. of this case Atanu Santra (P.W. 18) who seized it and he was present at that time. P.W. 3 identified his signature along with date (exhibit 6) in the seizure list and he had signed into it after reading and understanding its content. P.W. 3

further identified the informations of the documents which had been received from the website www.pornhub.com in the official email id occyber.cid-wb@gov.in containing two printed pages and identified his signatures along with constable no. and date (exhibits 7 and 7/1). P.W. 3 also identified the informations which had been received from the website Google.com in the official email id occyber.cid-wb@gov.in which was taken in four printed pages and also identified his signatures along with his constable number and date (exhibits 8, 8/1, 8/2 and 8/3). P.W. 3 also stated that on the same date he was examined by the I.O. of this case Atanu Santra who recorded his statement.

P.W. 4 who is the O/C, Cyber Cell, CID West Bengal stated in his evidence that he came to the court to depose in connection with Panskura P.S case number 381/17 and emails came from websites pornhub.com and Google.com in the official email occyber.cid-wb@gov.in in connection with Panskura P.S case No.381/17 and as per instructions of him, S.I. Barun Kumar Nayek (P.W. 11), Cyber Cell, C.I.D. West Bengal downloaded the said emails from the official computer and then those were printed from the official printer and then it was handed over to the I.O. of this case Inspector Atanu Santra who then seized those printed documents and prepared seizure list and he was present at the time of the preparation of the seizure list and after it was prepared he read over and understanding its content put his signature along with date (exhibit 6/1) into the seizure list. P.W. 4 identified the informations which had been received from the website pornhub.com in the official email id occyber.cid-wb@gov.in containing two printed pages and his signatures along with date into it (exhibits 7/2 and 7/3). P.W. 4 also identified the informations which had been received from the website Google.com in the official email id occyber.cid-wb@gov.in which was taken in four printed pages and his signatures along with date (exhibits 8/4, 8/5, 8/6 and 8/7). P.W. 4 further stated that on 19/8/17 Sub Inspector Barun Kumar Nayek of CID, Cyber Cell, West Bengal downloaded those two documents which were received from [pornhub](http://pornhub.com) and [Google Inc.](http://Google.com) in the official email id occyber.cid-wb@gov.in in connection with Panskura P.S. case no. 381 of 17 in the Government computer and printed out the same in the Government printer of CID, Cyber Cell, West Bengal and handed over the said documents to Inspector Atanu Santra who seized the same

under proper seizure list and it bears his signatures and the printed copies of the documents also bears his signatures and in total six pages and on the same day he was examined by the I.O. of this case Atanu Santra. P.W. 4 also stated that as being the officer-in-charge of the Cyber Cell, CID so being in-charge of the official email id and also in-charge of all the resources so he had instructed S.I. Barun Kumar Nayek (P.W. 11) to do the same.

P.W. 5 happens to be the the Development Manager posted at Budge Budge Institute of Technology who stated that Tapas Satapathi is the Registrar of the Institution and remembered the incident of 09/8/17 and it was regarding seizure list dt. 09/8/17 regarding admission form and forwarding letter. P.W. 5 further stated that the forwarding letter had been addressed to the CID by the Registrar, Tapas Satapathi and the admission form was one Boxi and then said Animesh Boxi. P.W. 5 identified his signature and the date (exhibit 9) in the seizure list dated 09/8/2017. P.W. 5 further stated that the admission form (exhibit 10) of Animesh Boxi had been filled up by Animesh Boxi and it had been signed by Animesh Boxi and he knew the handwriting and signature of Animesh Boxi and further stated that Animesh Boxi used to study in the institution as Mechanical Engineering final year student. P.W. 5 also identified the forwarding letter dt. 09/8/17 and identified his signature (exhibit 11) into it which was authorised by Tapas Satapathi and he knew the signature of Tapas Satapathi who is the Registrar of the college and identified the signature (exhibit 11/1) of Tapas Satapathi and the forwarding letter dt. 09/8/17 (exhibit 11/2). P.W. 5 identified his signature and date (exhibit 12) in the seizure list dt. 04/9/17 and the seizure list was relating to original answer paper of second Internal exam of Animesh Boxi, original membership form of Central Library of Budge Budge Institute of Technology of Animesh Boxi, original book bank card of Budge Budge Institute of Technology of Animesh Boxi, Book card vide No. 12049 of Budge Budge Institute of Technology of Animesh Boxi and a forwarding letter dated 04/9/2017 sent to the I.O. of this case by Tapas Satapathi. P.W. 5 identified the original answer paper of second Internal examination of Animesh Boxi containing six pages and put his signatures in two pages along with date 04/9/2017 out of six pages and a certificate had been given by Tapas Satapathi in the last page duly signed by Tapas Satapathi and bears the seal of the

college and P.W. 5 also identified his two signatures in the first two pages along with date (exhibits 13 and 13/1) and the certificate given by Tapas Satapathi along with his signature (exhibit 13/2) and the original answer paper of second Internal examination of Animesh Boxi containing six pages (exhibit 13/3). P.W. 5 identified the original membership form of Central Library of Budge Budge Institute of Technology dated 12/8/2014 of Animesh Boxi (exhibit 14/2) and stated that it had been filled up and signed by Animesh Boxi and he knew the signature and handwriting of Animesh Boxi and on the reverse side of the document it bears his signature and date (exhibit 14) and identified the certificate issued by Tapas Satapathi along with signature and date (exhibit 14/1). P.W. 5 identified the original book bank card of Budge Budge Institute of Technology of Animesh Boxi (exhibit 15/2) and on the reverse side of the document it bears his signature and date (exhibit 15) and identified the certificate issued by Tapas Satapathi along with signature and date (exhibit 15/1). P.W. 5 also identified the original book card vide no. 12049 of Budge Budge Institute of Technology of Animesh Boxi (exhibit 16/2) and on the reverse side of the document it bears his signature and date (exhibit 16) and identified the certificate issued by Tapas Satapathi along with signature and date (exhibit 16/1). P.W. 5 also identified the covering letter dt. 04/9/17 (exhibit 17/2) regarding the documents submitted dt. 04/9/17 and his signature (exhibit 17) and stated that it had been authorised by Tapas Satapathi and he knew the signature of Tapas Satapathi and identified the signature (exhibit 17/1) of Tapas Satapathi. P.W. 5 also stated that he had been examined by the I.O. and the I.O. of this case met with him two times and the I.O. had examined him on the last occasion.

P.W. 6 is a businessman who stated that he could recollect the incident of 29/7/2017 and stated that on that day due to his personal work regarding incoming of SMS regarding lottery, Sukanta Roy and he went to Cyber Cell, CID, Bhabani Bhavan and there told his problem and Atanu Santra was present there who told him to ignore these sort of SMS and then Atanu Santra requested Sukanta and him to become witnesses and one Avisekh Chaki was present but could not remember his name whether he was Avisekh Chaki and that person present there stated them and they listened about his relationship and told his lover to go with him to Digha but the said

lady refused to go to Digha and so, in anger he took some nude pictures and video of the lady and uploaded it into the porn website. P.W. 6 further stated that the name of the person who narrated the incident was Animesh Chaki and he was present before the court who then showed that pictures and video and the CID officer downloaded those and then the officer burnt those pictures and video in a DVD and told Sukanta and him to sign on the DVD and seizure list. P.W. 6 identified the seizure list containing two pages and after reading and understanding its content signed into the seizure list along with dates (exhibits 18 and 18/1) and also stated that he knew the signature and handwriting of Sukanta who had signed in both the pages along with date in his presence and identified it (exhibits 18/2 and 18/3). P.W. 6 identified his signature and date (mat exhibit 2) in the DVD (which the I.O. of this case marked as exhibit E before sending to C.F.S.L., Kolkata) and P.W. 6 also identified the signature (mat exhibit 2/1) of Sukanta Roy in the DVD and P.W. 6 also stated that one print out of Disclosure Memo containing two pages was also taken and he had signed in both the pages along with date (exhibits 19 and 19/1) and Sukanta Roy also signed into it in his presence and he knew the signature and handwriting of Sukanta Roy and identified it (exhibits 19/2 and 19/3).

P.W. 7 is the O/C, POWC Cell posted at CID, West Bengal who stated that she could remember the incident of 07/8/17 and on that day Additional O/C, Cyber Cell, Atanu Santra (P.W. 18) called her in his cell and when she went there then Atanu Santra gave her a requisition in connection with Panskura P.S. case no. 381 of 2017 and identified that requisition and also the signature along with date (exhibit 20) in it and P.W. 7 stated that after receiving it she had consulted with her superior for taking permission and had got verbal permission to assist in connection with Panskura P.S. case no. 381 of 2017. P.W. 7 further stated that she saw in the office of Atanu Santra, a girl and her father and Atanu Santra then informed her that the name of the girl is (*victim's name not disclosed*) who is the complainant of Panskura P.S. case no. 381 of 2017 and her father whose name is (*victim's father name not disclosed*) and in her presence victim gave her Samsung mobile and two sim cards to Atanu Santra (P.W. 18) who then seized those articles in her presence and she had signed on the seizure list as witness. P.W. 7 identified the

seizure list and stated that after understanding its content she put her signature therein along with date (exhibit 4/2). P.W. 7 identified the label which contained mat exhibit 1 i.e. the Samsung mobile phone of P.W. 1 and her signature and date into it (mat exhibit 1/3). P.W. 7 further stated that on the same date she had examined the victim and recorded her statement u/s 161 of Cr. P.C. and victim informed her that in her mobile phone there were some nude videos of her and that her boy friend Animesh Boxi without her consent illegally took those nude videos of her from the memory chip and had uploaded the same in porn website and that as the matter had been now known so being ashamed she broke down the memory chip and then she went to the Panskura P.S. and had filed case whose case number is Panskura P.S. case no. 381 of 2017 and victim further stated that on 04/8/2017 two unknown men came in a motor cycle when she was returning from her Basic Training School and threatened her to withdraw the case and also told her that she would get money and also told other words which she had not listened and after that victim went to Panskura P.S. and lodged a diary whose diary number is 167 dated 04/8/2017 and victim requested them that she was feeling ashamed and to do investigation and to give her justice. P.W. 7 further stated that after recording of the statement u/s 161 Cr. P.C. then Atanu Santra took consent from victim for taking her photography and video and she gave her consent in writing for taking her photography and video and P.W. 7 identified the written consent given by victim for taking her photography and video and P.W. 7 also gave an endorsement in her own handwriting along with signature and date and identified it (exhibit 5/3). P.W. 7 also stated that in her presence ASI of Photography Cell, CID Partha Pradhan took photographs and video of victim and then Partha Pradhan handed over both the cameras to constable Krishanu Ghosh and could able to identify those photographs. P.W. 7 identified the nine photos of victim and stated that Atanu Santra had examined him.

P.W. 8 happens to be the Assistant Sub Inspector attached to Photography Cell, CID, Bhabani Bhavan, West Bengal who stated that he could remember the incident of 07/8/2017 and on that day Inspector Atanu Santra gave a requisition to his O/C and identified the said requisition which had been received by O/C, Gopal Nath from Inspector Atanu Santra and identified the signature and handwriting

of his O/C along with date (exhibit 21) and also stated that the O/C Gopal Nath endorsed constable Krishanu Ghosh (P.W. 9) and Partha Pradhan i.e., him to do the same and then with video camera and with still camera in presence of Inspector Kakali madam he captured video and photography and later he came to know that he had recorded video and captured photo of victim (*name not disclosed*) in connection with Panskura P.S. case no. 381/17 and then he handed over the video camera and still camera to the constable of his cell namely Krishanu Ghosh who from the computer of the Photography Bureau printed the still pictures and burnt the video in a C.D. and then the I.O. of this case seized those photos and the C.D. from Krishanu Ghosh and he had signed on the back side of the photos and the C.D. and P.W. 8 identified the pictures of the victim and his signatures and dates on the backside of each pictures (exhibits 22 to 22/8). P.W. 8 identified his signature along with date 07/8/2017 (mat exhibit 3) in the C.D. (which P.W. 18 had marked as exhibit H before sending it to C.F.S.L., Kolkata). P.W. 8 also identified the certificate u/s 65 B of Indian Evidence Act which had been given by Krishanu Ghosh to Inspector Atanu Santra and he had signed into it along with date (exhibits 23 and 23/1) and he was examined by the I.O. who noted down his statements.

P.W. 9 happens to be the constable posted at CID, Photography Cell with constable number is WCT 108 who stated that he could remember the incident of 07/8/2017 and on that day he came to his office and Cyber Cell Inspector Atanu Santra gave a requisition to O/C Photography Cell and the requisition was relating to taking of photographs of a victim in connection with Panskura P.S. case no. 381/17 and his O/C, Gopal Nath deputed ASI Partha Pradhan (P.W. 8) and him for taking photographs as per direction as stated in the requisition and in presence of Lady Inspector Kakali Ghosh Kundu then ASI Partha Pradhan captured video and pictures of the victim and after that Partha Pradhan handed him the video camera and still camera which contained the captured video and pictures of the victim and then in the official computer which he operates in his office printed out nine photos of the victim and burnt the video in a C.D. and Lady Inspector Kakali Ghosh Kundu told him that (*victim's name*) is the victim girl of this case and after that P.W. 9 handed over the said nine photographs, the C.D. and the certificate u/s 65 B of Indian

Evidence Act, to Inspector Atanu Santra who prepared seizure list and P.W. 9 had signed into it along with date (exhibit 24) after reading and understanding its content. P.W. 9 further stated that in the seizure list Sub Inspector Barun Kumar Nayek (P.W. 11) and Sub Inspector Jyotirmoy Biswas signed as seizure witness and he knew the handwriting and signature of Jyotirmoy Biswas who works in the Cyber Cell, CID and identified the signature and date of Jyotirmoy Biswas (exhibit 24/1). P.W. 9 also identified the printed nine photos of the victim (exhibits 22/18 to 22/26) which had been printed by him and his signatures on each and every printed photos along with date (exhibits 22/9 to 22/17). P.W. 9 further stated that the source of these pictures are within the C.D. and identified the signatures and dates in the nine photos of Jyotirmoy Biswas (exhibits 22/27 to 22/35). P.W. 9 identified the C.D. (mat exhibit 3/2) which had been burnt by him and the manufacturer of the C.D. is "moserbaer" and the C.D. also contained the video of victim and the still pictures of victim (exhibits 22/18 to 22/26) and further stated that the C.D. also bears his signature with date (mat exhibit 3/1) and also identified the signature and date of Jyotirmoy Biswas (mat exhibit 3/3) in the C.D. (mat exhibit 3/2). P.W. 9 also stated that he had issued certificate u/s 65 B of the Indian Evidence Act in two pages and it has been typed by him and then he put his signatures into two pages along with date (exhibits 23/2 to 23/3) to prove the authenticity and identified the certificate u/s 65 B of the Indian Evidence Act (exhibit 23/4) and he was examined by Atanu Santra.

P.W. 10 stated that he could recall the incident of 22/7/2017 and on that day he went to CID, Bhabani Bhavan due to his own problem and Uttam Dolui, his friend cum neighbour was with him at that time and he stated his problem to officer Atanu Babu and there his friend Uttam Dolui, Atanu babu, himself and another officer Barun Kumar Nayek were present and after suggestion given by Atanu babu regarding his problem then Atanu babu introduced one person named Animesh Boxi and told them that he would say something to them and to listen and also to help them and then in presence of all including his friend Uttam Dolui then Animesh Boxi told them that he loved one lady and told his lover forcibly to go for outing in a place and his lover refused to go and then Animesh Boxi uploaded nude pictures and video of his lover online and P.W. 10 identified Animesh

Boxi before court. P.W. 10 further stated that then Animesh Boxi named the sites where he had uploaded the nude pictures and video to Barun Kumar Nayek and then in presence of his friend Uttam Dolui and him, Barun Kumar Nayek opened the website which contained the nude pictures and video and then after seeing it Animesh Boxi said these were those and then Barun babu loaded those video in two DVD and handed over those DVD to Atanu babu and Atanu babu wrote something and his friend and he had signed on the DVD and a paper and Atanu babu translated the contents of the said paper to him in Bengali and then after understanding its content his friend and he put their signatures thereon and that said paper was the seizure list containing two pages which was translated to him in Bengali and after understanding its content his friend and he put their signatures thereon and identified his signature along with date in the last page (exhibit 25) and also identified the signature and date of his friend Uttam Dolui (exhibit 25/1) in the seizure list. P.W. 10 identified his signature and the date (mat exhibit 4) in the DVD (which P.W. 18 had written exhibit C before sending to CFSL, Kolkata) and also identified the signature and date of his friend Uttam Dolui (mat exhibit 4/1). P.W. 10 also identified his signature and the date (mat exhibit 5) in the DVD (which P.W. 18 had written exhibit D before sending to CFSL, Kolkata) and also identified the signature and date of his friend Uttam Dolui (mat exhibit 5/1). P.W. 10 also identified the Disclosure Memo containing three pages and stated that it contained what Animesh Boxi had stated and he put his signatures along with date (exhibits 26, 26/1 and 26/2) and also identified the signatures and date of his friend Uttam Dolui (exhibits 26/3, 26/4 and 26/5) and on the same day he was examined by Atanu babu who recorded his statement and the entire episode took place in the CID office in presence of his friend Uttam Dolui, Atanu Babu, Animesh Boxi, Barun Kumar Nayek and himself.

P.W. 11 who is S.I. in CID, Cyber Crime Cell, West Bengal stated that he could recollect the incident of 22/7/17 and on that day he was in his office CID, Cyber Crime Cell, West Bengal and there in connection with Panskura P.S. case no. 381/17 Inspector Atanu Santra was examining one P.C. accused Animesh Boxi and during interrogation Animesh Boxi told Atanu Santra that he would show the websites where he had uploaded the nude pictures and video of his

lover (*victim's name*) and at that time two persons namely Gopal Das (P.W. 10) and Uttam Dolui came to their cell relating to their personal problems and Atanu Santra told the said two persons Gopal Das and Uttam Dolui that accused Animesh Boxi would show the websites where he had uploaded the nude pictures and video of his lover (*victim's name*) and requested Gopal Das and Uttam Dolui to be there as witnesses and then Animesh Boxi showed the "URL" where he had uploaded the nude pictures and video of his lover victim in the computer as provided in the office and the search words which Animesh Boxi used as a specific unique string was "victim's name daughter of victim's father's name" and the first search result which was shown and on the first pop up the domain is <https://www.pornhub.com> and that specific URL ends with "badF224" and this URL was given in the FIR. P.W. 11 further stated that apart from this, there were other URL with different domains and in total seven URL and he had downloaded the contents and all the URL that contained video materials from official computer and after that the contents of the URL which ends with "badF224" was burnt in a DVD from the official computer which contained DVD writer and had burnt in another DVD from the official computer the contents of all the seven URL and after that the I.O. of this case Atanu Santra seized those two DVD and also prepared seizure list which he had signed it after reading and understanding its content and also Gopal Das (P.W. 10) and Uttam Dolui signed on the seizure list as a witness in his presence and Animesh Boxi who also signed on the seizure list. P.W. 11 identified the seizure list containing two pages and also identified his signatures along with date (exhibits 25/2 and 25/3) in both the pages and also identified the remand accused Animesh Boxi in the court. P.W. 11 identified the DVD (mat exhibit 4/3) (P.W. 18 had written exhibit C before sending to CFSL, Kolkata) which he had burnt and also stated that the DVD was also signed by Gopal Das, Uttam Dolai, Animesh Boxi, by himself (mat exhibit 4/2) and the I.O. P.W. 11 identified the DVD (mat exhibit 5/3) (P.W. 18 had written exhibit D before sending to CFSL, Kolkata) which he had burnt and also stated that the DVD was also signed by Gopal Das, Uttam Dolai, Animesh Boxi, by himself (mat exhibit 5/2) and the I.O. P.W. 11 also identified the documents which had been written, prepared and signed by him containing six pages (exhibit 27 to 27/5) and also issued certificate

u/s 65 B of the Indian Evidence Act for the purpose of authentication and further stated that the the first page of it contained the very first URL which he had stated and which ends with "badF224" and further stated that out of six pages of the document five pages contained screen shots with specific URL of the videos which he had downloaded and burnt on the DVD (mat exhibits 4/3 and 5/3) and also identified the documents (exhibits 27/6 to 27/11) which had been prepared and signed by him and P.W. 11 also stated that on the last page Animesh Boxi had put his signature. P.W. 11 further stated that on 07/8/2017 he was present in his office and at that time the I.O. of this case Atanu Santra was also present and then victim and her father came to their cell and Atanu Santra the I.O. of this case gave a requisition to the Photography Cell to capture the video and still pictures of victim and Atanu Santra told lady Inspector Kakali Ghosh Kundu to come in their office and accordingly she came in their office and then in presence of Kakali Ghosh Kundu in the photography cell, ASI Partha Pradhan captured video and still pictures of victim in two cameras and then Partha Pradhan handed over the two cameras to Krishanu Ghosh who burnt the video in a C.D. from the computer as provided by the office and printed nine photos from the official colour printer and after that the I.O. of this case Atanu Santra seized those C.D. and nine photographs of victim from Krishanu Ghosh and he after reading and understanding its content on the seizure list signed with date (exhibit 24/2) on the seizure list as a witness and in his presence from the cell S.I. Jyotirmoy Biswas also signed (exhibit 24/1) into it as a witness and Krishanu Ghosh also signed on the seizure list. P.W. 11 identified the C.D. which had been burnt by Krishanu Ghosh and stated that he had signed into it along with date (mat exhibit 3/4) and also stated that S.I. Jyotirmoy Biswas also signed into it. P.W. 11 also identified the nine photos which had been printed by Krishanu Ghosh from the official computer which the I.O. Atanu Santra had seized it and stated that he had signed along with date (exhibits 22/36 to 22/44) on the back side of each photos and also identified the signatures of Jyotirmoy Biswas. P.W. 11 also stated that he could recollect the incident of 09/8/2017 and on that day he was present in his office and the I.O. of this case Atanu Santra was also present and Brajendra Gupta, (P.W. 5) Development Manager of Budge Budge Institute of Technology came to their office and as per the requisition by the I.O.

of this case Brajendra Gupta brought the original B. Tech admission form session 2014-15 of Budge Budge Institute of Technology of Animesh Boxi and authorisation letter given by Tapas Satpati, Registrar of Budge Budge Institute of Technology in favour of Brajendra Gupta and Tapas Satpati authorised the signature of Brajendra Gupta and the I.O. had seized those from Brajendra Gupta and prepared seizure list and he after reading and understanding its contents put his signature along with date (exhibit 9/1) and Gunasindhu Sahoo, S.I. of his cell also signed on the seizure list as a witness and Brajendra Gupta also signed on the seizure list. P.W. 11 identified the authorization letter and signed into it along with date (exhibit 11/3) and also the original B. Tech admission form session 2014 - 15 of Budge Budge Institute of Technology of Animesh Boxi and signed into it along with date (exhibit 10/1). P.W. 11 further stated that he could recollect the incident of 19/8/2017 and on that day reply came in the official email id occyber.cid-wb@gov.in from Google Law Enforcement and Pornhub Law Enforcement and he had downloaded those contents and had printed the same from the official printer and for using the official email address for this period and for doing this job Inspector Rajarshi Banerjee, O/C, Cyber Cell, CID, West Bengal gave him authorization and then Atanu Santra seized all the printed documents from him in presence of seizure witnesses and prepared seizure list and Inspector Rajarshi Banerjee and constable Ganesh Mondal signed on the seizure list as a witness and had identified signature along with date (exhibit 6/2) in the seizure list and P.W. 11 had signed into it after reading and understanding its content. P.W. 11 also stated that at the time of this seizure he had prepared a certificate u/s 65 B of Indian Evidence Act for authenticity of the downloaded printed email communications regarding the request and the response of Google Law Enforcement and Pornhub Law Enforcement and handed over the same to the I.O. of this case and identified the email communications which were downloaded and printed containing six pages printed and prepared by P.W. 11 using his official computer and in each of the six pages P.W. 11 had endorsed his signatures along with date and written "computer output made by me" and identified his signatures along with date and the endorsement "computer output made by me" (exhibits 8/8 to 8/11) and the first two pages contained the request letter by the I.O. to the

Google Law Enforcement and response from Google Authority with mentioning attachment file and the name of the attachment file was "animeshbokshi18.AccountInfo.txt" and the next two pages contained the downloaded and printed of the attachment file "animeshbokshi18.AccountInfo.txt" (exhibits 8/12 and 8/13) and further stated that in the attachment file "animeshbokshi18.AccountInfo.txt" (exhibit 8/13) the Google Authority sent details in respect of the email id animeshbokshi18@gmail.com and the response was that the email address is registered in the name of animesh bokshi which was created on 2011/03/19 (yyyy/mm/dd), recovery email animeshboxi19@gmail.com and for the purpose of registration the SMS code was sent to mobile number +919733185096 and +91 is country code of India. P.W. 11 also identified the email communication in between the I.O. and Pornhub Law Enforcement (exhibit 7/6) and his signatures along with date and the endorsement "computer output made by me" (exhibits 7/4 to 7/5) and the response of Pornhub Law Enforcement was that the URL ends with badF224 plus other four video URL had been uploaded using email id animeshbokshi18@gmail.com under user name "Anibokshi" and the "last_login" on "07/20/2017" (mm/dd/yyyy) and the current "status" of video is "deleted" and "status_reason" is "Self Deleted". P.W. 11 also issued a certificate u/s 65 B of the Indian Evidence Act (exhibit 28/1) for authenticity which had been prepared by him regarding those six pages of the communication and response of Google Law Enforcement and Pornhub Law Enforcement and he had signed into it and handed over the same to the I.O. and signed into it (exhibit 28). P.W. 11 stated that he could recollect the incident of 04/9/2017 and on that day he was present in his office and Inspector Atanu Santra was also present in the office and Brajendra Gupta, Development Manager, Budge Budge Institute of Technology came to the office along with some articles and the I.O. of this case seized those articles from Brajendra Gupta and P.W. 11 after reading and understanding its content put his signature along with date (exhibits 12/1 and 12/2) in the seizure list as a witness and S.I. Guna Sindhu Sahoo also signed on the seizure list as a witness and Brajendra Gupta also signed on the seizure list. P.W. 11 identified the seized articles original answer sheet of second year Internal Exam, B. Tech Budge Budge Institute of

Technology of Animesh Boxi containing six pages and stated that the first two pages bears his signatures along with date (exhibit 13/4 and 13/5), original membership form of Central Library of Budge Budge Institute of Technology duly filled up and signed by Animesh Boxi and his signature along with date (exhibit 14/3), original Book Bank Card of Central Library vide ME number 1410 and his signature along with date (exhibit 15/3), original Book Card of Budge Budge Institute of Technology and his signature along with date (exhibit 16/3) and the authorised letter of Registrar Tapas Satpati who had authorised the signature of Brajendra Gupta and his signature along with date (exhibit 17/3) and P.W. 11 stated that he had signed on the seizure list and all these documents in presence of I.O., Brajendra Gupta and other seizure witness and Brajendra Gupta, other seizure witness and I.O. also signed in his presence and the I.O. of this case recorded his statement in connection with Panskura P.S. case no. 381/17 and he had stated to him the entire procedure and seizure procedure.

P.W. 12 happens to be the Chief Manager of UBI Chittaranjan Avenue Branch, Kolkata who has testified before this court that he could recollect the incident of 14/9/2017 and stated that on that day an email was received praying for a requisition from CID, Cyber Cell, Mr. Atanu Santra I.O. in connection with Panskura P.S. case number 381/17 in the official email id and according to the said requisition there was a phone number 9733185096 stating whether there is any bank account with this mobile number and if there is any bank account then the bank statement since its opening till 14/9/17 and then he searched from UBI centralized server data base and found that there is a customer id with this phone number and on searching that customer id found the savings account number 1358010209038 and it belongs to Animesh Boxi, s/o Purnendu Boxi, village Radhaballavchak, P.O. Mahadole, P.S. Panskura, Dist. Purba Medinipur and then he gave the statement from its opening till 14/9/2017 of the downloaded details of account number 1358010209038 along with a forwarding letter and he had written the forwarding letter (exhibit 29) and signed (exhibit 29/1) into it and he had downloaded the details and typed the forwarding letter from his official computer. P.W. 12 also identified the transaction inquiry containing 7 pages in respect of account number 1358010209038 downloaded from UBI centralized server data base in his official computer and at the bottom of each

page the IP address is mentioned along with his signature and seal and printed from the printer attached to his official computer (exhibit 30). P.W. 12 also issued a certificate (exhibit 31) containing two pages u/s 65 B of the Indian Evidence Act which was prepared and signed (exhibit 31/1) by him to prove the authenticity of the transaction inquiry containing 7 pages in respect of account number 1358010209038 downloaded from UBI centralized server data base and had prepared the same in his official computer. P.W. 12 also issued a certificate u/s 2A(a) of the Banker's Books Evidence Act (exhibit 32) which was prepared and signed (exhibit 32/1) by him in respect of account number 1358010209038 and had prepared the same in his official computer.

P.W. 13 is the Alternate Nodal Officer, Vodafone who stated that on 16/10/17 he had received a requisition from CID regarding authenticate of IPDR against mobile number 9733185096 along with CAF (Customer Application Form) and accordingly, he provided all the data along with CAF as per the requisition in Vodafone letter head (exhibit 33) which was typed by him and signed (exhibit 33/1) by him. P.W. 13 also stated that he had also given IPDR data in a CD (mat exhibit 6) which is password protected and the password is given by him and also put his signature (mat exhibit 6/1) into it. P.W. 13 also stated that he had issued a certificate u/s 65 B of the Indian Evidence Act (exhibit 34) which was prepared and signed (exhibit 34/1) by him to prove the authenticity and justification of the CD data (mat exhibit 6). P.W. 13 also stated that the original CAF is the name of Barnali Baksi and mobile number 9733185096 (exhibit 35) and P.W. 13 identified the signature of distributor point namely Arati Mobile Counter (exhibit 35/1) and signature of distributor point namely Arati Mobile Counter (exhibit 35/2) in the proof of identity of said Barnali Baksi.

P.W. 14 who happens to be the ASI of police stated that on 21/7/2017 he was posted at Panskura P.S. in the district of Purba Medinipur as ASI of police and he could recollect the incident of 21/7/2017 and on that night victim and her father came to Panakura P.S. and lodged complaint to the effect that one Animesh Boxi uploaded nude videos of victim in the porn website and submitted written complaint to the then O/C of Panakura P.S., S.I. Madan Mohan

Roy and a case was registered being Panskura P.S. case number 381/17 dated 21/7/2017 and the I.O. of this case was C.I. Tamluk Sri Biswajit Haldar who told them to get ready to conduct raid and they went for raid and went to the house of Animesh Boxi whose father's name is Purnendu Sekher Boxi of Radhaballavchak under Panskura P.S. P.W. 14 further stated that there C.I. asked Animesh Boxi his name and he introduced himself as Animesh Boxi and he was examined and Animesh Boxi admitted that he had uploaded the nude videos in the porn site through mobile phone and then C.I. asked Animesh Boxi about the mobile phone through which he had uploaded the nude videos in the porn site and Animesh Boxi told that the mobile phone was with him and he took them to the first floor of the house and from his bed room Animesh Boxi gave his mobile phone and his laptop in the hands of C.I. saheb who then prepared seizure list of HP laptop, the mobile phone with the name Motorola, two sim cards one of Vodafone and another Jio and one SD memory card and after the seizure list was prepared Animesh Boxi and his uncles Ardhendu Seshar Boxi and Amalendu Sekhar Boxi signed on the seizure list in his presence and P.W. 14 also signed into the seizure list after reading and understanding the contents of the seizure list and identified his signature along with date (exhibit 36) in to it. P.W. 14 identified the seized HP laptop (mat exhibit 7), mobile phone (mat exhibit 8) and the charger (mat exhibit 8/1) and identified Animesh Boxi in court from whom the articles were seized.

P.W. 15 is an Examiner of Question Document posted at Questioned Document Examination Bureau as Examiner of Question Document who stated that on 07/9/2017 he received document for examination which was duly forwarded by Ld. Chief Judicial Magistrate, Purba Medinipur and the forwarding letter was prepared by Inspector Sri Atanu Santra and addressed to Director Q.D.E.B, CID, West Bengal dated 07/9/2017 and he had examined one Admission form for B. Tech. 2014-15 of Budge Budge Institute of Technology containing writings and signature, encircled and marked by the I.O of the case and which P.W. 15 stamped marked and initialed by him as "I" and identified the document (exhibit 10) and his signature and office seal (exhibit 10/2). P.W. 15 also stated that he had examined Internal Examination Paper of B.B.I.T. containing admitted writings said to be of Animesh Boxi encircled and marked by the I.O of the

case which P.W. 15 stamped, marked and initialed as "J", "J1" and identified the document (exhibit 13/3) and his signatures and office seal (exhibits 13/6 and 13/7). P.W. 15 examined membership form for Central Library of B.B.I.T. containing admitted writings and signature said to be of Animesh Boxi encircled and marked by the I.O of the case and P.W. 15 stamped, marked and initialed as "K" and identified the said document (exhibit 14/2) and his signature and office seal (exhibit 14/4). P.W. 15 also examined one Book Bank Card of B.B.I.T., of Central Library containing admitted signature said to be of Animesh Boxi encircled and marked by the I.O of the case and P.W. 15 stamped, marked and initialed as "L" and identified the document (exhibit 15/2) and his signature and office seal (exhibit 15/4). P.W. 15 had examined one Book Card of B.B.I.T., of Central Library containing admitted signature said to be of Animesh Boxi encircled and marked by the I.O of the case and P.W. 15 stamped, marked and initialed as "M" and identified the document (exhibit 16/2) and his signature and office seal (exhibit 16/4). P.W. 15 stated that he had examined all these documents containing writing and signatures with the help of scientific appliances such as different types of magnifying lenses, stereoscopic microscope, video spectral comparator 6000 under different lighting arrangement considering all aspects of document examination including analysis, interpretation and evaluation of data occurring in them to judge the writing habit of the writer and had prepared a report containing three pages and put his signatures and seal in each of the pages and it was typed by Jay Kumar Ghosh who is official typist and who typed in his presence and under his direction and identified the opinion report containing three pages dated 14/9/2017 (exhibit 37) and his signatures along with dates and official seal (exhibits 37/1, 37/2 and 37/3) and stated that according to his opinion report under the heading "agreements" significant individual characteristics of writing features were given and his opinion was the person who executed the admitted writings and signatures marked "J", "J1", "K", "L" and "M" also executed the writings and signatures marked "I".

P.W. 16 happens to be SI posted at CID, Cyber Crime Cell, West Bengal who stated that he could recollect the incident of 29/7/17 and on that day in the afternoon Inspector Atanu Santra, I.O. of this case in connection with Panskura P.S. case no. 381/17 brought the remand

accused in connection with this case Animesh Boxi @ Ani Boxi @ Ani Bokshi in the Cyber Crime Cell and in his presence the I.O. of this case had examined the accused and at that time two persons came to Cyber Crime Cell who disclosed their identity namely Sanjib Ghosh Dastidar and Sukanta Roy relating to their personal problems and then the I.O. requested them to be witnesses at the time of examination and they responded to the requests voluntarily and on being examination Animesh Boxi stated that he could show the various other websites apart from Pornhub website where he had uploaded the nude videos of his lover (victim's name) and then as per the instructions of the I.O. and the words of Animesh Boxi with the search keywords "victim's name daughter of victim's father name" P.W. 16 searched the same online in the official computer and on being searched some websites links came on the screen and clicked on the link which Animesh Boxi showed and then one website opened tubeharmony.com and then Animesh Boxi showed them the nude video of his lover victim. P.W. 16 further stated that he took screen shots of the video which Animesh Boxi showed to them in play mode and similarly through the same process as showed by Animesh Boxi he took screen shots from different links of the nude videos of his lover victim and the four screen shots were burnt in the DVD using the official DVD writer of the official computer and to prove the authenticity of the DVD. P.W. 16 had made a certificate under section 65 B of the Indian Evidence Act which was typed by him from his official computer and also printed the same from official printer and had mentioned in his certificate the four links from where the four screen shots were taken along with the screen shots of the same and put his signature into the said certificate. P.W. 16 further stated that as the entire process took place in presence of Animesh Boxi and as showed by Animesh Boxi so he took the signatures of Animesh Boxi in each and every pages of the certificate which was prepared by him and identified the said certificate containing three pages (exhibit 42) and his signatures along with date (exhibits 42/1, 42/2 and 42/3) and handed over the certificate and the DVD to Inspector Atanu Santra who in presence of two witnesses namely Sanjib Ghosh Dastidar and Sukanta Roy and also in presence of Animesh Boxi prepared seizure list and then in the seizure list as well as in the seized articles the said two witnesses, Animesh Boxi and the I.O. signed into it and identified

the seizure list and identified the signatures of Atanu Santra (exhibits 18/4 and 18/5) in the seizure list dated 29/7/17 (exhibit 18/6). P.W. 16 identified the CD (mat exhibit 2/8) containing the screen shots which had been burnt by him and the signature of the I.O. in the CD (mat exhibit 2/9). P.W. 16 further stated that on 09/8/2017 in the afternoon one person came to CID, Cyber Cell and met with the I.O. of this case and introduced himself as Brajendra Gupta and I.O. told his colleague Barun Kumar Nayek and him to be witnesses and the I.O. seized two papers from Brajendra Gupta and prepared seizure list and P.W. 16 identified the seizure list and his signature and date (exhibit 9/2). P.W. 16 also identified the seized articles the forwarding letter (exhibit 11/2) and his signature in the said forwarding letter (exhibit 11/4) and the admission form of Animesh Boxi for the session 2014 - 15 (exhibit 10) and Brajendra Gupta told that it was filled up by the candidate himself as it is their rule and his signature (exhibit 10/3) into it. It was further stated by P.W. 16 that on 04/9/17 Brajendra Gupta came to Cyber Cell, CID, West Bengal and met with the I.O. and had produced some documents and then I.O. told his colleague Barun Kumar Nayek and him to be witnesses and I.O. then seized five documents from Brajendra Gupta in their presence and prepared seizure list and he after reading the contents of the seizure list and after understanding its content signed into it along with date (exhibits 12/3 and 12/4) and Barun Kumar Nayek and Brajendra Gupta also signed into it and the seized documents were answer paper of 2nd Internal Examination of Budge Budge Institute of Technology containing 6 pages of Animesh Boxi and in the first two pages P.W. 16 put his signatures with date (exhibits 13/8 and 13/9), original membership form of Central Library of Budge Budge Institute of Technology and his signature and date into it (exhibit 14/5), book bank card of Central Library of Budge Budge Institute of Technology of Animesh Boxi and his signature and date into it (exhibit 15/5), book card of Budge Budge Institute of Technology of Animesh Boxi and his signature and date into it (exhibit 16/5) and forwarding letter which was issued by Tapas Satpati addressed to Additional O/C, Cyber Crime Cell, CID, West Bengal authorising Brajendra Gupta to submit those document and his signature along with date into it (exhibit 17/4). P.W. 16 identified the accused Animesh Boxi in court. P.W. 16 further stated that he is attached to CID, Cyber Cell from the year 2007 as ASI and got

promotion in the year 2016 as SI and is attached to CID, Cyber Cell and his job is to collect data from intermediary and also to provide technical support to I.O. and as per direction of the I.O. he assisted the I.O. for data collection from intermediary. P.W. 16 identified exhibit 7/6 and stated that was the reply of Pornhub which the I.O. pointed out to him to collect the I.P. allocation details of the I.P. 47.15.15.236 and from the I.P. it could be seen that from this I.P. the objectionable videos were uploaded to Pornhub and he searched the I.P. from I.P. look up from traceip.bharatiyamobile.com and came to know that the said I.P. was allocated by Reliance Jio and then through the CID official email address he wrote to the authority of Reliance Jio about the allotment details of the said I.P. for 02/5/2017 and the time period 11:56 to 12:20 IST and added five and half hours to this time on the time mentioned in exhibit 7/6 to convert the time UTC to IST and saw the reply on 18/12/2017 and the reply was sent on 14/12/2017 and there was delay as because he was in Delhi at that time and found that Reliance Jio authority had sent I.P.D.R. in the official email address and then he converted the domain Pornhub to IP address which was 31.192.120.36 using domaintoipconverter.com and opened the IPDR and found during that time period the mobile number being number 8240136385 and a device ID number 358960061307271 was used and then P.W. 16 searched in the authorised portal in the CID monitoring Cell with the help of monitoring cell, CID, to get the subscriber details of the mobile number and found that the mobile number is registered in the name of Animesh Boxi, son of Purnendu Boxi, and the number is Reliance Jio and an alternative mobile number was also given. P.W. 16 identified the screen shot of the the I.P. search result of 47.15.15.236 from the website traceip.bharatiyamobile.com which he had prepared and signed along with date (exhibit 42), the print out of Reliance Jio reply regarding IP allotment details containing two pages which he had prepared and signed along with date (exhibit 43), print out copy in excel format of IPDR which was the attachment copy of the reply of Reliance Jio which he had prepared and signed along with date (exhibit 44), screen shot copy of Pornhub.com converted to IP address result using domaintoipconverter.com which he had prepared and signed along with date (exhibit 45), screen shot print out copy of subscriber details of mobile no. 8240136385 which P.W. 16 had collected from the

monitoring Cell, CID, which he had prepared and signed along with date (exhibit 46) and the certificate u/s 65 B of the Indian Evidence Act containing two pages to prove the authenticity which he had prepared and signed along with date (exhibit 48).

P.W. 17 happens to be the Circle Inspector of Police, Tamruk Circle and the first I.O. of this case who stated that he could recollect the incident of 21/7/17 and played the role of investigating officer in Panskura P.S. case no. 381/17 dt. 21/7/17 and on 21/7/17 he went for general visit at Panskura P.S. and a complaint had been received by the O/C, of the P.S. which is related to I.T. Act and being an Inspector, the S.P. sir (SP, Purba Medinipur) ordered him to investigate the case and the O/C, endorsed him and identified the formal part of the FIR filled by the then O/C, SI Modan Mohan Roy (exhibit 2/1). P.W. 17 identified the complaint which victim had submitted to the P.S. and the endorsement of the then O/C, SI Modan Mohan Roy (exhibit 1/7). P.W. 17 also stated that victim also submitted screen shots along with the written complaint and he put those screen shots in an envelope and send the same before the court and identified the envelope where he put the screen shots and the endorsement (exhibit 1/8) and the signature of SI, Raban Hembram on the envelope (exhibit 1/9). P.W. 17 identified the three screen shots which he had put in the envelope (exhibits 1/4, 1/5 and 1/6). P.W. 16 further stated that as the complainant is a lady so he asked L.C. no. 1775 Tulika Jana to examine the complainant and Tulika Jana examined the complainant and also recorded her statement under section 161 of Cr. P.C on the same date and it was handed over to him which he kept in the case docket and he had examined the writer of the complaint victim's father who is father of the complainant under section 161 of Cr. P.C. and then through P.S. computer he visited the site address which had been mentioned in the complaint and could see the video but the video could not be downloaded as the internet was slow on that day but by watching the video P.W. 17 could feel that the video was that of victim and then with the force of Panskura P.S. went to the house of Animesh Boxi to arrest him as per the address mentioned in the written complaint and formal FIR and reached close to the house of Animesh at 02:20 hours on the same day and then conducted raid at the house of Animesh and found him and arrested him and interrogated Animesh Boxi who confessed that he had got the laptop

and the mobile phone with sim card through which he had uploaded the photos and videos and handed one laptop, one mobile phone of the brand Moto company and on opening P.W. 17 found one Jio sim and one Vodafone sim, one micro SD card of 16 GB of the company Sandisk Ultra and seized those and prepared labels and seizure list and signed into it (exhibit 36/1). P.W. 17 further stated that Ardhendu Sekhar Bakshi and Amalendu Sekhar Bakshi who are the uncles of Animesh and ASI Prabir Saha had signed on the seizure list as witnesses and Animesh Boxi the accused of this case also signed on the seizure list. P.W. 17 identified the laptop the name of the company is H.P. and the mobile phone which had been shown and produced by Animesh Boxi and he seized the same and the IMEI numbers are 358960061307271 and 358960061307289, Vodafone with sim ICCID number 899167162378001833854 (mat exhibit 8/5) and Jio sim card (mat exhibit 8/6) and SD card 16 GB Sandisk Ultra (mat exhibit 8/7) and mobile charger. P.W. 17 also stated that he had intimated victim by writing for recording of her statement under section 164 of Cr. P.C. and identified the document prepared and signed by him (exhibit 3/2) and the reply of victim (exhibit 3). P.W. 17 also stated that on 21/7/2017 he forwarded the accused before the court along with five days PC prayer and subsequently with departmental order handed over the case to Inspector Atanu Santra, CID, West Bengal along with C/D of this case. P.W. 17 identified the accused Animesh Boxi from whom articles were seized before the court and stated that the accused told that he had got an account in www.pornhub.com and with his gmail mail account animeshbokshi18@gmail.com uploaded nude videos to pornhub website and without knowing victim he transferred her nude video from her mobile phone and he had also got another mail id animeshboxi19@gmail.com .

P.W. 18 is the second I.O. of this case who investigated the case Panskura P.S. case no. 381/17 dated 21/07/17 u/s 354C/354D IPC and stated the entire investigation process, recording of statements of the witnesses, seizure and preparation of seizure list, issue notice u/s 91 Cr. PC, Disclosure memo, identified the seized articles and seizure list, label on the articles, collected certificates u/s 65 B of the Indian Evidence Act, stated the URL which contained the nude pictures and video of P.W. 1, stated the email communications in between CID, West Bengal and Google Inc. and Pornhub, identified the requisition,

marked exhibits on the seized articles to be sent to CFSL and submitted charge sheet before the court of Ld. Chief Judicial Medinipur, Purba Medinipur against the arrested accused Animesh Boxi @ Ani Boxi @ Anibokshi vide Panskura P.S. charge sheet no. 422/17 dt. 01/9/17 u/s 354A/354C/354D/509 IPC and 66E/66C/67/67A Information Technology Act, 2000. P.W. 18 further stated that further investigation was continued as per provision of 173(8) of Cr. PC. and by consulting with the case docket P.W. 18 stated the details what he had done and submitted supplementary charge sheet vide Panskura P.S charge sheet no. 478 dated 17/10/17 u/s 354A/354C/354D/509 IPC and 66E/66C/67/67A Information Technology Act, 2000 (as amended till date) against the accused Animesh Boxi @ Ani Boxi @ Anibokshi and identified the accused Animesh Boxi before the court.

In this case there are lots of electronic evidences. Now let us discuss some of the provisions of Indian Law relating to electronic form of evidences.

Section 3 of Indian Evidence Act states:

"Evidence" - "Evidence" means and includes

(1) all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry; such statements are called oral evidence;

(2) all document including electronic records produced for the inspection of the Court, such statements are called documentary evidence.

Section 4 of the Information Technology Act, 2000 recognizes information in electronic form for any laws in the following ways:

Where any law provides that information or any other matter shall be in writing or in the typewritten or printed form, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is -

- (a) Rendered or made available in an electronic form; and
- (b) accessible so as to be usable for a subsequent reference.

Section 79A of the Information Technology Act provides the concept of E-Form Evidence in the following ways:

Explanation - For the purposes of this section, "electronic form evidence" means any information of probative value that is either stored or transmitted in electronic form and includes computer evidence, digital audio, digital video, cell phones, digital fax machines.

Sections 65A and 65 B Indian Evidence Act also deals with electronic form of evidences.

In this present case we find computer related terms. Now let us find some of the computer related terms about what it actually means.

What is internet?

Internet has been defined in the book *An Introduction to Cyber Crime and Cyber Law* by Prof. R. K. Chaubey as a collection of interconnected networks is called an internetwork or just internet.

In celebrated judgment by the Supreme Court of United States of America (US) in *ACLU v. Reno, 521 US 844(1997)* we got the definition of internet, the very platform of the virtual world in the following way:

"The internet is an international network of interconnected computers."

Justice Stephen Breyer of the US Supreme Court stated "*Science in the Courtroom*", "*In this age of science, science should expect to find a warm welcome, perhaps a permanent home, in our courtrooms... Our decisions should reflect a proper scientific and technical understanding so that the law can respond to the needs of the public*".

In *State of Maharashtra vs. Praful B. Desai (AIR 2003 SC 2053)* the Hon'ble Supreme Court has observed that "*advancement in science and technology has also helped the process of law in administration of Justice*".

Now what meaning of the term "link" in Internet and what is URL?

In the book *An Introduction to Cyber Crime and Cyber Law* by Prof. R. K. Chaubey where it has been written as "*Web addresses are recorded in a Uniform Resource Locator (URL), a logical address of a*

web page that can always be used to dynamically retrieve the current physical copy over the internet. The key advantage of the Uniform Resource Locator's (URL) is its universality, since the address is the same no matter where in the world it is used".

In few words URL means the address of a World Wide Web page. URL is an abbreviation that stands for "Universal Resource Locator." It's another name for a web address, the text that we type into your internet browser when we want to go to a website. A URL works like a house address. If we give someone a house address, they can navigate to find that address and if we give browser a URL, it can find where to go to find the web page we want to visit.

In section 66 A of the I.T. Act, 2000 we find the meaning of the term electronic mail or electronic mail message and in short email as a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message.

Now what is log or a log file?

In the book *An Introduction to Cyber Crime and Cyber Law* by Prof. R. K. Chaubey it has been written that *"a log is a file that lists actions that have occurred. For example web servers maintain log files listing every request made to the server. With log file analysis tool, it's possible to get a good idea of where visitors are coming from, how often they return, and how they navigate through a site".*

Now what is IP address?

In the book *An Introduction to Cyber Crime and Cyber Law* by Prof. R. K. Chaubey it has been written that *"Each computer on the internet has a unique numerical address, called an Internet Protocol (IP) address used to route packets to it across the Internet. If a machine needs to contact another by a domain name, it first looks up the corresponding IP address with the domain name service. The IP address is the geographical descriptor of the virtual world. Some internet sites can and do track the IP addresses and other informations".*

What is the meaning of the term pornography?

In Black's Dictionary (Eighth edition) pornography is stated as "material such as writings, photographs or movies depicting sexual

activity or erotic behavior in a way that is designed to arouse sexual excitement.

The defacto complainant (P.W. 1) in the written complaint mentioned about a URL that the accused uploaded the nude pictures and videos of the defacto complainant in a porn site and stated the details URL of it. At the time of examination -in- chief of the defacto complainant (P.W. 1) stated that *"if court gives me the opportunity then I can show it before the court today that the link containing my video is still available with my name and my father's name. I had seen my video yesterday evening that the link is still alive. Today my personal nude photos are spreading every where in this world and it is now impossible for me to live in this world."*

The website pornhub is opened which contained the link of the video and the witness stated that this is my video with my name and my father's name.

So, it appears before this court that the video of the defacto complainant is still available in the virtual world when she deposed as P.W. 1 in the exact "URL" which contained the nude video of P.W. 1. So, it can be presumed that the video has been uploaded to the website as P.W. 1 claimed that the video is that of her.

Now the question is whether this accused person has committed any offence u/s 354A/354C/354D/509 of IPC and sections 66E/66C/67/67A IT Act 2000 (Amendment 2008) or not.

From the evidence of P.W. 5 it appears that Animesh Boxi used to study Mechanical Engineering final year at Budge Budge Institute of Technology. P.W. 5 identified the admission form of Animesh Boxi and stated that it had been filled up by Animesh Boxi and it had been signed by Animesh Boxi and he knew the handwriting and signature of Animesh Boxi. There is nothing in the cross examination of P.W. 5 that Animesh Boxi is not the student of Budge Budge Institute of Technology. Now, this court finds from the cross examination of P.W. 5 who stated that *"Student has to fill up registration form online by himself. The registration form is typed and filled up at present."* which means that at present submission of registration form is done online. There is also nothing in the cross examination of P.W. 5 that Animesh Boxi had submitted registration form online or challenged the admission form. Section 106 of Indian Evidence Act states that burden

of proving fact especially within knowledge. P.W. 5 stated that *"Student has to fill up registration form online by himself"* and exhibit 10 has been filled up on a paper and not online and according to section 106 of the Indian Evidence if the admission form is filled up online then no such defense had been taken regarding filing up the admission form at that relevant point of time when the accused had filled up the admission form. On perusal of exhibit 10 carefully this court finds that it has been written there *"To be filled by the candidate carefully"* which means that the candidate himself had filled up the exhibit 10 and in the serial no. 1 *"name of the candidate"* it is written *"ANIMESH BOXI"* and also in the bottom of exhibit 10 *"Animesh Boxi"* is written over the head full signature of the candidate. On the overleaf of exhibit 10 this court finds that there is a certificate given with the name Tapas Satapathi and from the seal it appears *"Registrar Budge Budge Institute of Technology"* (exhibit 10/5). From exhibit 10/5 this court finds that it has been certified by the Registrar, Budge Budge Institute of Technology and exhibit 10 is the original application form for admission submitted by Animesh Boxi in their office. On perusal of exhibit 10 this court further finds that P.W. 11 and P.W. 16 had also signed into it which P.W. 11 and P.W. 16 had stated in their evidences and P.W. 18 also identified his signature and his endorsement and date. The cross examination of P.W. 5 shows nothing that Animesh Boxi had not filled up the admission form.

P.W. 5 also produced the forwarding letter (exhibit 11/2) and on perusal of exhibit 11/2 this court finds that it is a forwarding letter issued by Tapas Satapathi who authorised Bajendra Gupta to submit exhibit 10 and addressed to Addl. O/C, Cyber Crime Investigation Cell, CID and it is written that in connection with Panskura P.S. case no. 381/17 dt. 21/7/17. Moreover, this court finds that Tapas Satapathi and Bajendra Gupta had signed into it which P.W. 5 had identified it. From the case record this court finds that this case arose from Panskura P.S. case no. 381/17 dt. 21/7/17 which means that exhibits 10 and 11/2 were submitted by P.W. 5 in connection with this case. In exhibit 11/2 this court further finds that in the said document P.W. 11 and P.W. 16 also put their signatures and identified it. P.W. 18 also identified exhibit 11/2 which he had seized in connection with this case and stated that it had also been signed by witnesses and also

certified by Tapas Satapati and he had also put his endorsement (exhibit 11/5).

Now P.W. 5 in his examination -in- chief stated that he had signed and had written the date in the seizure list dt. 09/8/17 (exhibit 9/4) and identified the seizure list in court. There is nothing in the cross examination of P.W. 5 that he had not signed and put date on exhibit 9/4. On careful perusal of exhibit 9/4 this court finds that the date of seizure is 09/8/17 which P.W. 5 had stated in his evidence and there was signature and date. This seizure list contains the same articles which P.W. 5 deposed in his evidence. P.W. 11 corroborated the evidence of P.W. 5 who stated that he was present in his office on 09/8/17 and P.W. 5 brought original B. Tech admission form session 2014-15 of Budge Budge Institute of Technology of Animesh Boxi and authorisation letter given by Tapas Satpati, Registrar of Budge Budge Institute of Technology in favour of Brajendra Gupta and Tapas Satpati authorised the signature of Brajendra Gupta and the I.O. had seized those from Brajendra Gupta and prepared seizure list and he after reading and understanding its contents put his signature along with date. P.W. 11 further stated that Guna Sindhu Sahoo also signed on the seizure list as a witness Brajendra Gupta also signed on the seizure list and identified the signature of Brajendra Gupta. There is nothing in the cross examination of P.W. 11 that he had not signed on the seizure list. Now, P.W. 16 stated that on 09/8/2017 in the afternoon one person came to CID, Cyber Cell and met with the I.O. of this case and introduced himself as Brajendra Gupta as a staff of Budge Budge Institute of Technology and produced two papers before the I.O. who then seized those two papers from Brajendra Gupta and prepared seizure list in their presence and he signed into it along with date. There is nothing in the cross examination of P.W. 16 that he had not signed on the seizure list. P.W. 18 in his evidence stated that on 09/8/2017 Brajendra Gupta came to Cyber Cell of CID, West Bengal and being authorised by Registrar of Budge Budge Institute of Technology and produced articles for which requisition was sent by him to the Registrar on 06/8/2017 and he had seized the documents under proper seizure list duly signed by him and witnesses and Mr. Brajendra Gupta and identified the signatures of Brajendra Gupta, Barun Kumar Nayek and Gunasindhu Sahoo and his signature and the seizure list dated 09/8/17. P.W. 18 thus proved the seizure list dt.

09/8/17 and all the seizure witnesses and Brajendra Gupta corroborated with each other and P.W. 5, P.W. 11 and P.W. 16 identified their signatures on this seizure list, seizure list and seized articles. There is nothing in the cross examination of P.W. 18 regarding the seizure list and the seized articles and the seizure list had been signed by the witnesses who identified their signatures and also in the seized articles and the I.O. also put his endorsement that he had seized the articles in connection with this case. This court further finds that P.W. 5 is totally an independent witness and is not at all connected with any police office or CID, West Bengal. There is also an admission from the side of the accused that the exhibit 9/4 is proper when P.W. 11 in his cross examination stated that *"It is a fact that nothing had been seized from Tapas Satapathi on that day. The articles as mentioned in the seizure list dated 09/8/17 had been seized from Development manager Brajendra Gupta."*

P.W. 5 in his evidence further stated that on 04/9/2017 he had produced original answer paper of second Internal exam of Animesh Boxi, original membership form of Central Library of Budge Budge Institute of Technology of Animesh Boxi, original book bank card of Budge Budge Institute of Technology of Animesh Boxi, book card vide no. 12049 of Budge Budge Institute of Technology of Animesh Boxi and a forwarding letter dated 04/9/2017 sent to the I.O. of this case by Tapas Satapathi and he was authorised to do so and identified all these articles before this court. P.W. 5 stated further that the original answer paper of second Internal examination of Animesh Boxi (exhibit 13/3) contained six pages and stated that he put his signatures in two pages along with date 04/9/2017 (exhibits 13 and 13/1) out of six pages and a certificate had been given by Tapas Satapathi in the last page duly signed by Tapas Satapathi. On perusal of exhibit 13/3 this court finds that P.W. 11 and P.W. 16 signed into it along with date. At the time of seizure P.W. 18 also signed into it along with endorsement and date. Similarly, this court on perusal of the exhibits 14/2, 15/2 and 16/2 finds that P.W. 5 had produced these documents and also signed into it and identified the certificate and signatures of Tapas Satapathi. By scanning the evidence of P.W. 5 this court finds it had been filled up by Animesh Boxi. Both the seizure witnesses P.W. 11 and P.W. 16 stated that they had signed along with date into the seized articles. The second I.O. of this case P.W. 18 also stated that at

the time of seizure of exhibit 14/2, 15/2 and 16/2 he had signed into it along with date. From exhibit 13/3 this court finds that P.W. 18 had given an endorsement that he had seized this article in connection with this case and there is also an endorsement on the last page by Tapas Satapati who had given certificate that it is the original answer copy submitted by Animesh Boxi during 2nd Internal Examination on 17/5/17. In exhibit 14/2 there is also an endorsement given by P.W. 18 that he had seized in connection with this case and Tapas Satapati also certified that it is the original form submitted by Animesh Boxi to the Central Library. P.W. 5 identified the covering letter (exhibit 17/2) regarding the documents submitted dated 04/9/2017 and identified his signature into it and further stated that through this covering letter he was authorised by Tapas Satapathi and identified the signature of Tapas Satapati as both P.W. 5 and Tapas Satapati work at the same place. On perusal of exhibit 17/2 this court finds that this letter had been issued by Tapas Satapati and authorised P.W. 5 to submit it and it is also written that it relates to Panskura P.S. case no. 381/17 and the documents mentioned in exhibit 17/2 contained the hand writing and signature of Animesh Boxi. The seizure witnesses P.W. 11 and P.W. 16 also signed into it along with date (exhibit 17/3 and 17/4). P.W. 18 in his evidence stated that he put an endorsement into it and on perusal of the said endorsement this court finds that the endorsement is P.W. 18 seized it in connection with this case.

Now on perusal of exhibit 12/6 this court finds that it is the seizure list dated 04/9/17 and seized from Bajendra Gupta who had produced the documents and all the seized articles are property mentioned in the seizure list and the seizure witnesses and P.W. 5 also signed into it and P.W. 18 who had prepared the seizure list also signed into it. From the oral evidences of P.W. 5, P.W. 11 and P.W. 16 there are no contradictions but they corroborated and there is nothing in the cross examinations of P.W. 5, P.W. 11 and P.W. 16. At the time of argument the Ld. Lawyer for the accused pointed out that there is no "Seen" or sign of Ld. Chief Judicial Magistrate in exhibit 12/6. In this aspect this court is of the view that it is merely a process of court and during trial in exhibit 12/6 the seizure witnesses identified their signatures and P.W. 18 who had prepared this seizure list also identified it and hence exhibit 12/6 is proved by the witnesses. Mere a failure in procedure by the court which is not beyond the control of

the prosecution will not destroy the prosecution case totally. In the cross examination the defense tried to establish that P.W. 5 is not well conversant with English language but the exact degree of his knowledge on English language was not clear from the trend of cross examination and on the contrary the P.W. 18 the I.O. of this case has emphatically stated that P.W. 5 knew English which means that P.W. 5 do has knowledge in English language.

So, it appears before this court now at this point from the seized documents (exhibits 10, 13/3, 14/2, 15/2 and 16/2) that the accused Animesh Boxi is a student of Budge Budge Institute of Technology and there is nothing in the cross examinations of P.W. 5 that Animesh Boxi is not the student of Budge Budge Institute of Technology and these exhibits contained the handwriting and signature of accused Animesh Boxi. P.W. 5 is the only witness from Budge Institute of Technology and on careful perusal of the cross examination of P.W. 5 there is nothing that Animesh Boxi is not the student of Budge Budge Institute of Technology. The Ld. Lawyer for the accused at the time of argument submitted that as per The West Bengal University of Technology Act, 2000 the Registrar cannot certify the documents of the candidates nor can send any documents of any candidates. Be it mention herein that regarding this no question has been put to P.W. 5 and now at the time of argument taking this plea is not justified as to whether The West Bengal University of Technology Act, 2000 is applicable here or not.

P.W. 18 in his evidence stated that in exhibit 10 he had encircled and marked I (marked by this court as exhibit 10/6), in exhibit 13/3 he had encircles and marked exhibits J and J1 (marked by this court as exhibits 13/12 and 13/13), in exhibit 14/2 he had marked exhibit K (marked by this court as exhibit 14/7), in exhibit 15/2 he had marked exhibit L (marked by this court as exhibit 15/7) and in exhibit 16/7 he had marked exhibit M (marked by this court as exhibit 16/7). It has been further stated by P.W. 18 that on 07/9/17 he had produced the documents (exhibits 10, 13/3, 14/2, 15/2 and 16/2) before the Ld. Chief Judicial Magistrate, Purba Medinipur along with prescribed format duly filled by him under proper challan and Ld. Chief Judicial Magistrate, Purba Medinipur had been pleased to forward the same and signed on all the documents, prescribed form and challan and in

the said prescribed form P.W. 18 had sought for opinion from handwriting expert whether the writings/signature which he had marked as exhibit I and the admitted writings/signatures which he had marked as exhibits J, J1, K, L and M were written by same person or not and any other point of interest which may help in investigation and on the same date he produced the prescribed form, challan and documents (exhibits 10, 13/3, 14/2, 15/2 and 16/2) which had been duly forwarded by Ld. Chief Judicial Magistrate, Purba Medinipur before the Director of Questioned Document Examination Bureau, Government of West Bengal.

P.W. 15 in his evidence stated that on 07/9/17 he received document for examination which was duly forwarded by Ld. Chief Judicial Magistrate, Purba Medinipur and the forwarding letter was prepared by Inspector Sri Atanu Santra and addressed to Director Q.D.E.B, CID, West Bengal dated 07/9/2017 and he had examined one Admission form for B. Tech 2014-15 of Budge Budge Institute of Technology, Internal Examination Paper of B.B.I.T. containing admitted writings said to be of Animesh Boxi, membership form for Central Library of B.B.I.T., one Book Bank Card of B.B.I.T., of Central Library and one Book Card of B.B.I.T., of Central Library and P.W. 15 had examined all these documents containing writing and signatures with the help of scientific appliances such as different types of magnifying lenses, stereoscopic microscope, video spectral comparator 6000 under different lighting arrangement considering all aspects of document examination including analysis, interpretation and evaluation of data occurring in them to judge the writing habit of the writer and submitted his report containing three pages (exhibit 37) and had put his signatures along with dates (Exhibits 37/1, 37/2 and 37/3) and had stated that according to his opinion report under the heading "agreements" significant individual characteristics of writing features are given and his opinion is the person who executed the admitted writings and signatures marked "J", "J1", "K", "L" and "M" also executed the writings and signatures marked "I". There is nothing in the cross examination of P.W. 15 that he had submitted his report by not following the scientific principles except mere denials and suggestions.

In *Ajit vs State 1997 Cr LJ 3964 (SC) : (1997)7 SCC 110* it was held that *"Section 73 does not specify by whom the comparison shall be made. However, looking to the other provisions of the Act it is clear that it can be made by a handwriting expert (sec 45) or by anyone familiar with the handwriting Sec 47 or by the court itself."* So, P.W. 15 had stated his opinion and according to his opinion the admitted writings and signatures marked "J", "J1", "K", "L" and "M" i.e. those documents marked exhibits 13/3, 14/2, 15/2 and 16/2 by this court also executed the writings and signatures marked "I" i.e. exhibit 10 marked by this court and exhibit 10 is the admission form of Animesh Boxi. In a judgment reported in *AIR1973 SC 1346* it was held that *"Court not to give much weight to the evidence of handwriting expert. His evidence must yield to the positive evidence in court."* In another judgment *S. Gopal Reddy v State (1996) 4 SCC 596* it was held that *"The evidence of an expert is rather weak type of evidence and all courts do not generally consider it as offering conclusive proof and therefore safe to rely upon the same without seeking independent and reliable corroboration."* Section 47 of the Indian Evidence Act states about opinion as to handwriting, when relevant. In a judgment *AIR 1959 SC 93; AIR 1959 SC 443* it was held that *"Proof of signature - opinions of a handwriting expert and any person acquainted with the handwriting are admissible. Circumstantial evidence to prove signature."* So, as because P.W. 15 stated that according to his opinion the person who executed the admitted writings and signatures marked "J", "J1", "K", "L" and "M" also executed the writings and signatures marked "I" is not the conclusive proof of it. P.W. 5 in his evidence identified the admission form of Animesh Boxi and further stated that it had been filled up by Animesh Boxi and it had been signed by Animesh Boxi and he knew the handwriting and signature of Animesh Boxi. P.W. 5 also identified the original answer paper of second Internal examination of Animesh Boxi, original membership form of Central Library of Budge Budge Institute of Technology dated 12/8/2014 of Animesh Boxi and stated that it had been filled up and signed by Animesh Boxi and he knew the signature and handwriting of Animesh Boxi, original membership form of Central Library of Budge Budge Institute of Technology dated 12/8/2014 of Animesh Boxi, original book bank card of Budge Budge Institute of Technology of Animesh Boxi, original book card vide No.

12049 of Budge Budge Institute of Technology of Animesh Boxi. P.W. 5 had identified all the documents belonging to Animesh Boxi and maintained in the official records. During the examination of the accused u/s 313 Code of Criminal Procedure (Cr. PC in short) the accused stated that *“At present the form is filled up online. Tapas Satapathi who had authorised it why he did not come to court.”* and *“The original answer script must stay with the university”* and by these statements this court can hold that this accused Animesh Boxi is/was connected with Budge Institute of Technology otherwise how the accused knew that at present the form is filled up online and the original answer script must stay with the university. Thus in view of the judgment reported in *AIR 1959 SC 93; AIR 1959 SC 443* it is thus proved that those were the handwritings and signatures of Animesh Boxi as P.W. 5 stated that those are the handwritings of Animesh Boxi. Now it is clear before this court that Animesh Boxi is the student of Budge Budge Institute of Technology and he himself had filled up his admission form i.e. exhibit 10. Now, as this court has come in to conclusion that Animesh Boxi had filled up exhibit 10 and as this case is related to cyber laws as well so this court will note two important things from exhibit 10 and those are mobile number of student which is written as 9733185096 and email animeshbokshi18@gmail.com .

P.W. 18 in his evidence stated that on 22/7/17 he had examined PC accused Animesh Boxi @ Ani Boxi @ Anibokshi and recorded his statement and in his statement he stated that he created an account in www.pornhub.com with the profile name Anibokshi using any of his email id animeshbokshi18@gmail.com or animeshboxi19@gmail.com and he stated further that he composed password of his web account Anibokshi in [pornhub.com](http://www.pornhub.com) keeping the phrase Animoni and Ani stands for Animesh i.e. the accused himself and moni stands for (*victim's name not disclosed*) and uploaded some of personal nude videos with private activities of victim, the complainant of this case which were copied by Animesh earlier from victim's mobile phone, in www.pornhub.com through his account styled as Anibokshi under the title VICTIM'S NAME DAUGHTER OF VICTIM'S FATHER'S NAME (NICK NAME OF VICTIM'S FATHER). P.W. 18 further stated that the accused had uploaded and shared the same in quite a lot of porn websites and as the remand accused Animesh Boxi voluntarily gave his statement which disclosed some pertinent facts of the case so P.W. 18 requested

the accused to give his disclosure statement in presence of the independent witnesses and the accused voluntarily agreed and P.W. 18 requested two persons namely Gopal Das and Uttam Dolai who came at Cyber Crime Investigation Cell at CID headquarter for their personal issues, to be witness for recording disclosure statement of the remand accused and both of them agreed to do so and Sub Inspector Barun Kumar Nayek of Cyber Crime Investigation Cell was available at Cyber Crime Investigation Cell and P.W. 18 instructed him to make computer output after downloading of the relevant digital documents from the office computer detailed for him and to certify u/s 65 B of Indian Evidence Act if he satisfied by the process of making relevant computer output to be obtained as per disclosure statement of PC accused Animesh Boxi and recorded the disclosure statement of the accused duly signed by the accused and independent witnesses. P.W. 18 identified the disclosure statement (exhibit 26/9) of the remand accused prepared by him and as stated by the remand accused and also identified his signatures (exhibits 26/6, 26/7 and 26/8) and the signatures of the accused and witnesses.

P.W. 10 stated that on 22/7/17 he went to Bhabani Bhavan with his friend Uttam Dolui due to his personal problem and there Atanu Santa (P.W. 18) introduced one person named Animesh Boxi who told them that he loved one lady and told his lover forcibly to go for outing in a place and his lover refused to go and then Animesh Boxi uploaded nude pictures and video of his lover online. P.W. 10 further stated that Animesh Boxi named the sites where he had uploaded the nude pictures and video to Barun Kumar Nayek (P.W. 11) and the said Barun Kumar Nayek in presence of his friend Uttam Dolui and him opened the website which contained the nude pictures and video and then after seeing it Animesh Boxi said these were those and Barun babu loaded those video in two DVD and handed over those DVDs to Atanu babu and Atanu babu wrote something and his friend and he had signed on the DVDs and a paper and Atanu Babu translated the contents of the said paper to him in Bengali and then after understanding its content his friend and he put their signatures thereon and identified the seizure list and his signature in the seizure list along with date (exhibit 25). P.W. 10 also identified the signature and date of his friend Uttam Dolui (exhibit 25/1). P.W. 10 identified the

signature and date in the DVD (mat exhibit 4) and the signature and date of his friend Uttam Dolui (mat exhibit 4/1). Similarly, P.W. 10 also identified his signature and date in another DVD (mat exhibit 5) and the signature and date of his friend Uttam Dolui (mat exhibit 5/1). P.W. 10 identified his signatures and date (exhibits 26, 26/1 and 26/2) and signatures and date of his friend Uttam Dolui (exhibits 26/3, 26/4 and 26/5) on the Disclosure Memo.

P.W. 11 stated that on 22/7/17 at CID, Cyber Crime Cell, West Bengal in connection with Panskura P.S. case no. 381/17 Inspector Atanu Santra was examining one P.C. accused Animesh Boxi and during interrogation Animesh Boxi told Atanu Santra that he would show the websites where he had uploaded the nude pictures and video of his lover victim and at that time two persons namely Gopal Das and Uttam Dolui came to their cell relating to their personal problems and Atanu Santra told the said two persons Gopal Das and Uttam Dolui that accused Animesh Boxi would show the websites where he had uploaded the nude pictures and video of his lover victim and requested Gopal Das and Uttam Dolui to be there as witnesses and then Animesh Boxi showed the "URL" where he had uploaded the nude pictures and video of his lover victim in the computer as provided by his office and the search words which Animesh Boxi used as a specific unique string was "Victim's name daughter of victim's father name along with nick name" and the first search result which was shown and on the first pop up the domain was <https://www.pornhub.com> and that specific URL ends with "badF224" and this URL is given in the FIR. P.W. 11 also stated that apart from this there were other URL with different domains and in total seven URL and he had downloaded it from the official computer. P.W. 11 further stated that the contents of the URL which ends with "badF224" was burnt in a DVD from the official computer and in another DVD the contents of all the seven URL and after that the I.O. of this case Atanu Santra seized those two DVD and also prepared seizure list which he had signed it after reading and understanding its content and also Gopal Das and Uttam Dolui signed on the seizure list as witnesses in his presence and Animesh Boxi also signed on the seizure list. P.W. 11 identified his signatures along with date (exhibits 25/2 and 25/3). P.W. 11 identified the DVD which he had burnt (mat exhibit 4/3) and his signature and date into it (mat exhibit 4/2).

Similarly, P.W. 11 identified another DVD which had been burnt by him (mat exhibit 5/3) and his signature and date into it (mat exhibit 5/2).

P.W. 11 also stated that he had issued the certificate u/s 65 B of the Indian Evidence Act for the purpose of authentication (exhibit 27/6 to 27/11) and the first page of this contained the first URL which ends with "badF224" and out of six pages of the document five pages contained screen shots with specific URL of the videos which he had downloaded and burnt on the DVD and had signed on each and every pages along with date (exhibit 27 to 27/5) and the certificate.

P.W. 18 stated that as showed by the PC accused the links were searched out and the accused identified it. P.W. 18 stated that the link in www.pornhub.com (*The detailed URL link which P.W. 18 stated in his evidence is not mentioned in this judgment by this court to protect the privacy of the defacto complainant*) was mentioned in the alleged FIR and SI Barun Kumar Nayek searched out the link as voluntarily led, shown and narrated by PC accused Animesh Boxi and made computer output of the files of the said links in two DVD as described and produced the same before him along with the certificate u/s 65 B of the Indian Evidence Act and P.W. 18 prepared the seizure list and marked, labeled, sealed and seized the articles in presence of independent witnesses and the PC accused. P.W. 18 stated that the seized articles were a moserbear DVD of 4.7 GB/16x marked as 'Exhibit C' by him in which the video file with title 'VICTIM'S NAME DAUGHTER OF VICTIM'S FATHER NAME WITH VICTIM'S FATHER NICK NAME' downloaded from URL www.pornhub.com (*The detailed URL link which P.W. 18 stated in his evidence is not mentioned in this judgment by this court to protect the privacy of the defacto complainant*) was burnt and another moserbear DVD of 4.7 GB/16x marked as 'Exhibit D' by him in which seven video files as noted with title 'VICTIM'S NAME DAUGHTER OF VICTIM'S FATHER NAME WITH VICTIM'S FATHER NICK NAME' were burnt after screen capturing of video files on playing mode downloaded and burnt and the names of the video file are: 20170722_175429, 20170722_150042, 20170722_151124, 20170722_152631, 20170722_153832, 20170722_145039 and 20170722_155114. P.W. 18 identified the seizure list (exhibit 25/6) and his signatures into it (exhibit 25/4 and 25/5). P.W. 18 identified the DVD (mat exhibit 4/3)

which had been seized from SI Barun Kumar Nayek and P.W. 18 mentioned exhibit C and also stated that he had prepared the label (mat exhibit 4/10) and also signed into it along with date (mat exhibit 4/11). P.W. 18 identified the DVD (mat exhibit 5/3) which had been seized from SI Barun Kumar Nayek and P.W. 18 mentioned exhibit D and also stated that he had prepared the label (mat exhibit 5/10) and also signed into it along with date (mat exhibit 5/11).

Now section 27 of the Indian Evidence Act states about - "*How much of information received from accused may be proved*" and two essential requirements for the application of this section are that (i) the person giving information must be an accused of any offence and (ii) he must also in police custody. On perusal of exhibit 29/9 this court finds that its the Disclosure Memo of the remand accused of this case and it had been duly signed by P.W. 10 and also identified the signatures and date of his friend Uttam Dolui and P.W. 18 also signed in to it. At the time of argument Ld. Special PP relied upon a citation in respect of section 27 of Indian Evidence Act reported in (1972) 1 Supreme Court Cases 249 where it was held that "*Discovery of concealed article is fact discovered*". In this context Ld. Lawyer for the accused referred a citation reported in *Pulukuri Kotayya and others vs King Emperor* and argued that in this case section 27 of Indian Evidence Act is not applicable as because there was no discovery at all as the URL has already been mentioned in the written complaint. On careful reading of the said citation this court is of the view that this citation is not applicable in this case as because even though only one URL had been mentioned in the written complaint but here in this case several other URL were discovered which contained the nude pictures and videos of P.W. 1. Now, according to exhibit 29/9 this court further finds that URL links are mentioned. The question is how much of the information would go into evidence u/s 27 of the Indian Evidence Act despite the fact that the information was given by the accused to the police while he was police custody and only that part of the information supplied by the accused which is direct and immediate cause of discovery will go into evidence. Discovery of fact must be in consequence of information given by the accused. In *Anter Singh vs State* (2004) 10 SCC 657: AIR 2004 SC 2865: 2004 Cr LJ 1380 it was held that - "*the information was clear, immediate and proximate cause of the discovery*". It is now the settled legal position

that the expression "fact discovered" includes not only the physical object produced, but also the place from which it is produced and the knowledge of the accused as to this. In this present case it has been stated by P.W. 10 that - *"Then Animesh Boxi named the sites where he had uploaded the nude pictures and video to Barun Kumar Nayek and then in presence of Uttam Dolui and me, Barun Kumar Nayek opened the website which contained the nude pictures and video and then after seeing it Animesh Boxi said these were those and then Barun babu loaded those video in two DVD."* The knowledge of the accused is very much clear in this case and the information supplied by the accused is direct and immediate cause of discovery and the result is those websites URL where the accused had uploaded the nude video of P.W. 1 and thus this will go into evidence. Except mere denials in the cross examination of P.W. 10, P.W. 11 and P.W. 18 there is nothing in the cross examinations. In *AIR 1959 Cal 213* it was held - *"Suggestion in cross-examination which is denied by the witnesses is no evidence"*. In *State vs Sunil (2001)1 SCC 652* it was held that *"It is for the accused through cross-examination of witnesses or through any other materials, to show that the evidence of the police officer is unreliable. It is not a legally approvable procedure to presume police action as unreliable"*. Moreover evidences shows that after such discovery (in this case the URL) those were downloaded by P.W. 11 and were burnt into DVD. During the examination of the accused u/s 313 Cr. PC the accused stated before this court that he had not shown anything and his statements were taken forcibly. But one thing really surprised before this court is regarding the statement of the accused u/s 313 Cr. PC that the accused had not seen any computer. It is hard to presume that when all the institutions are getting computer-based even the courts today and there will not be no computer at the Cyber Crime Cell, CID. Regarding this P.W. 9 in his cross examination stated that *"I can not say whether in other department there are computers or not but in our CID department in every section there are computers"* which means that in each sections there are computers. This court from the cross examination of P.W. 11 finds that there was an admission from the defense side that Animesh Boxi had given statement to the I.O. and not to him. Ld. Special PP at the time of argument referred a citation *A.N. Venkatesh vs state (2005)7 SCC 714 : 2005 CrLJ 3732* where it was held that *"Even if disclosure statement*

under sec. 27 is found inadmissible still it is relevant under section 8 as conduct of the accused" and AIR 1952 SC 167: 1952 Cr LJ 683: 1952 SCR 839: 1952 SCJ 230 where it was held that "Several accused stated that dead bodies could be recovered in nala. Nala stretching over several miles. Accused pointed out the exact place Discovery" are applicable in this case. Ld. Special PP at the time of argument relied a another citation reported in AIR 1957 SC 211: 1957 Cr LJ 328 where it was held that "Statement of the accused that he would give the clothes of the deceased which he had kept in a brick-kiln and thereafter the accused dug out the clothes from the pit is admissible" and argued that fact discovered is not equivalent to object produced. It embraces the place from which the object is produced and the knowledge of the accused as to this, and the information given must relate distinctly to the fact and is applicable in this case and the highlighted portion in red ink and marked as exhibits 26/10 and 26/11.

So, it appears before this court that as regards the seizure list dt. 22/7/17 (exhibit 25/6) P.W. 10, P.W. 11 and P.W. 18 corroborated with each other. There are independent witnesses and there is nothing in the cross examinations that there was no seizure and all the witnesses identified their signatures. On perusal of exhibit 25/6 this court finds that the place of seizure was the same which P.W. 10 stated and P.W. 11 was already present there and the witnesses identified the seized articles as per the seizure list. This court further finds from exhibits 27/6 to 27/11 that P.W. 11 had issued a certificate u/s 65 B of the Indian Evidence Act and there is nothing in the cross examination of P.W. 11 that he had not issued the said certificate u/s 65 B of the Indian Evidence Act and that the certificate u/s 65 B of the Indian Evidence Act was not proper. Moreover, P.W. 11 in his cross examination clearly stated that he had written "made computer output" which means the entire process was included in exhibits 27/6 to 27/11 P.W. 11 had written "the entire process of making computer output is done as stated by me" and in the word "making" the typing word is included and thus there is an admission that P.W. 11 had issued the certificate u/s 65 B of the Indian Evidence Act properly. The seizure list was thus prepared and the articles were seized based on the informations as provided by the accused.

Now, from the deposition of P.W. 10 and the order sheets it has been reflected that sealed envelopes Exhibit C and Exhibit D which P.W. 18 had marked were sealed with gala and it were marked in the said gala CFSL in rounded form and within it in the center PHY is marked, which the I.O. had send to C.F.S.L. and later on C.F.S.L. sent the said to the Chief Judicial Magistrate Court are properly opened. Moreover, on opening where Exhibit C was written another envelope was present inside it and written EXBT: DVDQ2 and it contained Gala marked "Government Examiner" was opened before this court in presence of all and on opening this envelope a DVD box in sealed condition with Gala marked Cyber Cell CID on the label in the DVD box was present but DVD case was not opened. Moreover, on opening where Exhibit D was written another envelope was present inside it and written EXBT: DVDQ1 and it contained Gala marked "Government Examiner" was opened before this court in presence of all and on opening this envelope a DVD box in sealed condition with Gala marked Cyber Cell CID on the label in the DVD box was present but DVD case was not opened. As per the prayer from the side of the prosecution this court finds from the order sheets in both the envelopes the signatures and envelopes are marked as exhibits and these are undisputed.

The following are marked as exhibits in the envelope where P.W. 18 had written Exhibit C u/s 294 Cr. PC.

Mat exhibit 4/4 - Signature of Dr. P. Paul Ramesh in the envelope where EXBT: DVDQ2 is written.

Mat exhibit 4/5 - Signature of L. Nato Singh in the envelope where EXBT: DVDQ2 is written.

Mat exhibit 4/6 - Envelope where EXBT: DVDQ2 is written.

Mat exhibit 4/7 - Signature of Dr. P. Paul Ramesh in mat exhibit 4/3.

Mat exhibit 4/8 - Signature of Dr. P. Paul Ramesh with seal in the envelope where Exhibit C is written.

Mat exhibit 4/12 - Signature of L. Nato Singh in the label in mat exhibit 4/10.

Mat exhibit 4/13 - Signature of L. Nato Singh in mat exhibit 4/3.

The following are marked as exhibits in the envelope where P.W. 18 had written Exhibit D u/s 294 Cr. PC.

Mat exhibit 5/4 - Signature of Dr. P. Paul Ramesh in the envelope where EXBT: DVDQ1 is written.

Mat exhibit 5/5 - Signature of L. Nato Singh in the envelope where EXBT: DVDQ1 is written.

Mat exhibit 5/6 - Envelope where EXBT: DVDQ1 is written.

Mat exhibit 5/7 - Signature of Dr. P. Paul Ramesh with seal in mat exhibit 5/3.

Mat exhibit 5/8 - Signature of Dr. P. Paul Ramesh with seal in the envelope where Exhibit D is written.

Mat exhibit 5/12 - Signature of L. Nato Singh in the label in mat exhibit 5/10.

Mat exhibit 5/13 - Signature of L. Nato Singh in mat exhibit 5/3.

Now, P.W. 6 stated that on 29/7/2017 due to his personal work he came to Cyber Cell, C.I.D., Bhabani Bhavan with Sukanta Roy and Atanu Santra requested Sukanta and him to become witnesses. P.W. 6 further stated that one Avisekh Chaki was present but can not remember his name whether he is Avisekh Chaki who stated about his relationship and he told his lover to go with him to Digha but the said lady refused to go to Digha so, in anger he took some nude pictures and video of the lady and uploaded it into the porn website. P.W. 6 stated that the name of the person who narrated the incident was Animesh Chaki who was present in court. P.W. 6 further stated that then Animesh Chaki showed that pictures and video and the CID officer downloaded those and burnt those pictures and video in a DVD and that the DVD was burnt in their presence and told Sukanta and him to sign on the DVD and seizure list. P.W. 6 identified the seizure list and stated that after reading and understanding its content he put his signatures along with date (exhibits 18 and 18/1) and also identified the signatures of Sukanta Babu (exhibits 18/2 and 18/3). P.W. 6 also identified the DVD where he had signed along with date (mat exhibit 2) and also the signature of Sukanta Roy in the DVD (mat exhibit 2/1). P.W. 6 identified his signature in the disclosure memo (exhibits 19 and 19/1) as well as his friend Sukanta Roy (exhibits 19/2 and 19/3).

P.W. 16 stated that on 29/7/17 Inspector Atanu Santra, I.O. of this case in connection with Panskura P.S. case no. 381/17 brought the remand accused in connection with this case Animesh Boxi @ Ani Boxi

@ Ani Bokshi in the Cyber Crime Cell and in his presence the I.O. of this case examined the accused and at that time two persons namely Sanjib Ghosh Dastidar and Sukanta Roy came relating to their personal problems and then the I.O. requested them to be witnesses at the time of examination which they responded to the requests voluntarily and P.W. 16 further stated that Animesh Boxi stated that he could show the various other websites apart from Pornhub website where he had uploaded the nude videos of his lover victim and then as per the instructions of the I.O. and the words of Animesh Boxi with the search keywords "victim's name daughter of victim's father name" P.W. 16 searched the same online in the official computer and on being search some websites links came on the screen and clicked on the links which Animesh Boxi showed and the website was tubeharmony.com and then Animesh Boxi showed them the nude video of his lover victim. P.W. 16 further stated that he then took screen shot of the video which Animesh Boxi showed to them in play mode and similarly through the same process as showed by Animish Boxi he took screen shots from different links of the nude videos of victim and the four screen shots were burnt in the DVD using the official DVD writer of the official computer with different video file names. P.W. 16 identified the CD burnt by him (mat exhibit 2/8) and the signature of the I.O. in this CD (mat exhibit 2/9). P.W. 16 also stated that to prove the authenticity of the DVD he had issued a certificate under section 65 B of the Indian Evidence Act which was typed by him from his official computer and also printed the same from the official printer and had mentioned in his certificate the four links from where the four screen shots were taken along with the screen shots of the same and the entire process took place in presence of Animesh Boxi and took the signatures of Animesh Boxi in each and every pages of the certificate which was prepared by him. P.W. 16 identified the certificate u/s 65 B of the Indian Evidence Act (exhibit 42) and the signatures along with date (exhibits 42/1, 42/2 and 42/3) and handed over the certificate and the DVD to Inspector Atanu Santra who then in presence of two witnesses namely Sanjib Ghosh Dastidar and Sukanta Roy and also in presence of Animesh Boxi prepared seizure list and in the seizure list the two witnesses, Animesh Boxi and the I.O. signed into it. P.W. 16 identified the

signatures of Atanu Santra in the seizure list (exhibits 18/4 and 18/5) and the seizure list dt. 29/7/17 (exhibit 18/6).

P.W. 18 identified the DVD (mat exhibit 2/8) and his signature and date in the DVD (mat exhibit 2/9) and P.W. 18 mentioned "Exhibit E" and stated that mat exhibit 2/8 had been burnt by SI Gunasindhu Sahoo after being downloaded and screen captured about the links which had been mentioned in the seizure list (exhibit 18/6) and also identified his signatures into it (exhibits 18/4 and 18/5). P.W. 18 also identified the Disclosure Memo (exhibit 19/6) and his signatures into it (exhibits 19/4 and 19/5). P.W. 18 also stated that he had prepared a label pasted in the DVD case and also signed into it to send the DVD to the CFSL and identified the label (Mat exhibit 2/10) and identified the certificate u/s 65 B of Indian Evidence Act issued by SI Gunasindhu Sahoo and the URL were mentioned in it along with the screen shots of the same.

P.W. 6 stated that Animesh babu stated him and Sukanta Roy that he told his lover to go with him to Digha but the said lady refused to go to Digha and so, in anger he took some nude pictures and video of the lady and uploaded it into the porn website and then the accused showed that pictures and video and the CID officer who downloaded those and burnt those pictures and video in a DVD. On perusal of exhibit 19/6 this court finds that its the Disclosure Memo of the remand accused of this case and it had been duly signed by P.W. 6 who also identified the signatures and date of Sukanta Roy and P.W. 18 also signed in to it. According to this exhibit 19/6 this court further finds that URL links are mentioned. In this occasion also the information was clear, immediate and proximate cause of the discovery and P.W. 16 had burnt the same in a DVD and thus the knowledge of the accused is very much clear in this case and the information supplied by the accused is direct and immediate cause of discovery and the result is those websites URL where the accused had uploaded the nude video of P.W. 1 and thus this will go into evidence. Ld. Special PP at the time of argument pointed out the highlighted portion marked with red ink marked as exhibit 19/7. On careful perusal of the cross examinations of P.W. 6, P.W. 16 and P.W. 18 regarding this there are mere denials and nothing else. The evidences shows that after such discovery (in this case the URL) those were

downloaded by P.W. 16 and were burnt into DVD. The seizure list was thus prepared and the articles were seized based on the information of the accused. In *AIR 1954 Kutch 22: 1954 Cr LJ 801* it was held that "Concealed place will prove knowledge of the accused" and this citation is very much applicable in this case. In this present case it is the accused who only knew in which websites the nude pictures and videos were uploaded and it is only the accused who can say about it and the result is the URL of the websites.

So, it appears before this court that as regards the seizure list dt. 29/7/17 (exhibit 18/6) P.W. 6, P.W. 16 and P.W. 18 corroborated with each other. There are independent witnesses and there is nothing in the cross examinations that there was no seizure. Even there is an admission in the cross examination of P.W. 6 when the question was put to P.W. 6 as "*You had put your signatures as per the request of the I.O.*" and P.W. 6 answered that "*I had signed it as a witness*". On perusal of exhibit 18/6 this court finds that the place of seizure was the same which P.W. 6 stated and P.W. 16 was already present there and the witnesses identified the seized articles as per the seizure list. This court further finds from exhibits 42 that P.W. 16 had issued a certificate u/s 65 B of the Indian Evidence Act and there is nothing in the cross examination of P.W. 16 that he had not issued the said certificate u/s 65 B of the Indian Evidence Act. Ld. Special PP referred a citation reported in *AIR 1937 Cal 99 38 Cr LJ 818* which states that - "*Document can be proved by circumstantial evidence*" and argued that the omission to sign in seizure list and in some material exhibits and in Disclosure Memo by Gunasindhu Sahoo (P.W. 16) is not a fatal to the prosecution case in proving those documents as because a document can be proved by circumstantial evidence and in this case this court finds that it is applicable as the documents have been proved by circumstantial evidences.

Now, from the order sheet it had been reflected that sealed envelope which P.W. 18 had marked as Exhibit E was sealed with gala which the I.O. had send to C.F.S.L. and later on C.F.S.L. sent the said to the Chief Judicial Magistrate Court is properly opened. Moreover, on opening in case where Exhibit E was written another envelope was present inside it in sealed condition with Gala written government examiner was opened and on opening that envelope a C.D. box in

sealed condition with Gala with C.F.S.L. label was present was opened. As per the prayer from the side of the prosecution this court finds from the order sheet the signatures and envelope are marked as exhibits and these are undisputed.

The following are marked as exhibits in the envelope where P.W. 18 had written Exhibit E u/s 294 Cr. PC.

Mat exhibit 2/2 - Signature and seal of Dr. P. Paul Ramesh in the envelope where EXBT: DVDQ3 is written.

Mat exhibit 2/3 - Signature of L. Nato Singh in the envelope where EXBT: DVDQ3 is written.

Mat exhibit 2/4 - Envelope where EXBT: DVDQ3 is written.

Mat exhibit 2/5 - Signature of Dr. P. Paul Ramesh along with seal in the DVD which contained in the envelope Mat Exhibit 2/4.

Mat exhibit 2/6 - Signature of Dr. P. Paul Ramesh with seal in the envelope where Exhibit E is written.

Mat exhibit 2/7 - Envelope where Exhibit E is written.

Mat exhibit 2/11 - Signature of L. Nato Singh in the label in mat exhibit 2/10.

Mat exhibit 2/12 - Signature of L. Nato Singh in mat exhibit 2/8.

P.W. 1 in her evidence stated that on 07/8/17 she came to CID, Cyber Cell, Bhawani Bhawan with her father and there for the purpose of investigation she gave her consent to the Photography Cell, CID, West Bengal and identified the said writing and signature (exhibit 5). P.W. 2 who is the father of P.W. 1 stated that on 07/8/2017 he went to CID, office along with her daughter and stated that there his daughter's consent was taken for taking her pictures and identified her signature in the said consent letter (exhibit 5/1) and the signature of her daughter (exhibit 5/2). P.W. 7 in her evidence stated that on 07/8/2017 Atanu Santra took consent from victim for taking her photography and video and victim gave her consent in writing for taking her photography and video and identified the said written consent given by victim for taking her photography and video and after taking photography and video of victim she had given an endorsement in her own handwriting along with signature and date and identified it (exhibit 5/3) and P.W. 7 further stated that in her presence A.S.I. of Photography Cell, CID, Partha Pradhan took

photographs and video of victim and then Partha Pradhan handed over both the cameras to constable Krishanu Ghosh and P.W. 7 identified nine photos of victim (exhibits 22/18 to 22/26).

P.W. 8 stated that on 07/8/17 Inspector Atanu Santra gave a requisition to his O/C and identified the signature and handwriting of his O/C Gopal Nath along with date and the requisition and O/C Gopal Nath endorsed constable Krishanu Ghosh and him to do the same. P.W. 8 further stated that then with video camera and with still camera in presence of Inspector Kakali madam he captured video and photography and later came to know that he had recorded video and captured photo of (*victim's name*) in connection with Panskura P.S. case no. 381/17 and handed over the video camera and still camera to the constable of his cell namely Krishanu Ghosh. P.W. 8 further stated that then from the computer of the photography bureau printed the still pictures and burnt the video in a C.D. and the I.O. of this case seized those photos and the C.D. from Krishanu Ghosh and he had signed on the backside of the photos and the C.D. and P.W. 8 identified the pictures of the victim and stated that on the backside of each pictures he had signed along with date (exhibits 22 to 22/8). P.W. 8 also identified the CD which was burnt and the signature along with date into it (mat exhibit 3). P.W. 8 also identified the certificate u/s 65 B of Indian Evidence Act which had been given by Krishanu Ghosh to Inspector Atanu Santra and he had signed into it along with date (exhibits 23 and 23/1).

P.W. 9 stated that on 07/8/2017 Cyber Cell Inspector Atanu Santra gave a requisition to O/C Photography Cell and the requisition was relating to taking of photographs of a victim in connection with Panskura P.S. case no. 381/17 and then his O/C Gopal Nath deputed ASI Partha Pradhan and him for taking photographs and as per direction as stated in the requisition in presence of lady Inspector Kakali Ghosh Kundu, ASI Partha Pradhan captured video and pictures of the victim and handed the video camera and still camera which contained the captured video and pictures of the victim to him and then from the official computer P.W. 9 printed out nine photos of the victim and burnt the video in a CD and then he handed over the said nine photographs, the CD and the certificate u/s 65 B of Indian Evidence Act, to Inspector Atanu Santra who seizure it and he had

signed into it along with date (exhibit 24) after reading and understanding its content. P.W. 9 further stated that SI Barun Kumar Nayek and SI Jyotirmoy Biswas also signed on the seizure list as witnesses and identified the handwriting and signature and date of Jyotirmoy Biswas (exhibit 24/1) who works in the Cyber Cell, CID. P.W. 9 also identified the printed nine photos of the victim printed by him and signed on each and every printed photos along with date (exhibits 22/9 to 22/17) and the signatures and date Jyotirmoy Biswas (exhibits 22/27 to 22/35). P.W. 9 also identified the CD (mat exhibit 3/2) which contained the video of victim and the still pictures of victim which was the source file of (exhibits 22/18 to 22/26) and his signature along with date (mat exhibit 3/1) as well as the signature along with date of Jyotirmoy Biswas (mat exhibit 3/3). P.W. 9 also identified the certificate u/s 65 B of the Indian Evidence Act (exhibit 23/4) which was typed by him and then signed into it along with date (exhibits 23/2 and 23/3).

P.W. 11 stated that on 07/8/2017 victim and her father came to his cell and Atanu Santra the I.O. of this case gave a requisition to the Photography Cell to capture the video and still pictures of victim and as soon as victim came to his office then Atanu Santra told lady Inspector Kakali Ghosh Kundu to come in their office and accordingly she came in their office and then in presence of Kakali Ghosh Kundu in the Photography Cell, ASI Partha Pradhan captured video and still pictures of victim in two cameras and handed over the two cameras to Krishanu Ghosh who then burnt the video in a C.D. from the computer as provided by the office and printed nine photos from the official colour printer and after that the I.O. of this case Atanu Santra seized those CD and nine photographs of victim from Krishanu Ghosh and P.W. 11 after reading and understanding its content on the seizure list signed on the seizure list as a witness and in his presence SI Jyotirmoy Biswas also signed into it as a witness and Krishanu Ghosh also signed on the seizure list from whom the CD and nine photographs of victim were seized. P.W. 11 identified his signature along with date (exhibit 24/2) in the seizure list and the signature of Jyotirmoy Biswas (exhibit 24/1). P.W. 11 also identified the CD which had been burnt by Krishanu Ghosh and his signature along with date into it and the signature and date of SI Jyotirmoy Biswas. P.W. 11 also identified the nine photos which had been printed by Krishanu Ghosh

from the official computer which the I.O. Atanu Santra had seized it and identified his signatures along with date on the back side of each photos (exhibits 22/36 to 22/44) and the signatures and date of S.I. Jyotirmoy Biswas.

P.W. 18 who is the I.O. of this case stated that on 07/8/2017 the complainant cum victim and her father came to Cyber Crime Investigation Cell at CID, head quarter and he sent a requisition after getting approval from superior to Smt. Kakali Ghosh Kundu, Inspector of police, O/C, POWC, Cell, CID, West Bengal to examine and record the statement of victim girl in connection with this case and sent requisition to O/C, Photography Bureau, CID, West Bengal to depute competent photographer for digital photography of victim and further requested to provide the photos and videos of the concerned victim in soft copy as well as in hard copy with proper certificate u/s 65 B of the Indian Evidence Act and the victim girl gave her consent in writing to take her photography in this respect and identified the said requisition (exhibit 21/2) and his signature along with date (exhibit 21/1) and after receiving the requisition O/C, Photography Cell endorsed into it and identified the said endorsement and signature of O/C Photography Cell, CID, West Bengal and engaged constable Krishanu Ghosh for computer processing and ASI Partha Pradhan for still and video photography of victim and identified the second part and in duplicate of the previous requisition for photography which bears his signature along with date (exhibit 5/4) and the portion of the requisition which had been prepared by him (exhibit 5/5) and further stated that consent was given by victim in presence of her father and photography was taken in presence of lady Inspector Kakali Ghosh Kundu and victim had given in writing her consent for taking her photography and identified the signatures of P.W. 1, P.W. 2 and P.W. 7. P.W. 18 further stated that after completion of photography constable Krishanu Ghosh, computer operator of photography Cell, CID, West Bengal produced nine printed still colour photographs of victim which P.W. 18 marked as exhibit G1 to G9 and duly signed on overleaf by photographer ASI Partha Pradhan who had taken still and video photographs and computer operator constable Krishanu Ghosh who made print out of the said photographs and burnt into a compact disk which is a moserbaer compact disk and in that said moserbear compact disk two folders namely still photo and video were there and

the still photo folder contained the digital image files having names IMG_4505, IMG_4506, IMG_4507, IMG_4508, IMG_4509, IMG_4510, IMG_4511, IMG_4512, IMG_4513 corresponding with exhibit G1, G2, G3, G4, G5, G6, G7, G8, G9 respectively and video folder contained the uninterrupted unedited video (File Name: M2U07310, Duration of one minute twenty five seconds) of victim cum complainant and in both the still and video photography the victim hold her Aadhar card with proper certificates as per provision of section 65 B of the Indian Evidence Act and P.W. 18 had seized under proper seizure list and those articles are nine printed still colour photographs of victim. P.W. 18 identified his signature (exhibit 24/3) and the seizure list dt. 07/8/17 (exhibit 24/4) and also identified the signature of Jyotirmoy Biswas (exhibit 24/1). P.W. 18 further identified the envelope where he had put the nine photographs and had marked exhibits G1, G2, G3, G4, G5, G6, G7, G8, G9 respectively and had prepared label and pasted it on the envelope and had signed into it along with date (exhibit 22/67) in order to sent it to CFSL and the nine photographs and stated that on the overleaf the seizure witnesses Barun Kumar Nayek and Jyotirmoy Biswas also signed into it and identified those signatures into the nine photographs and his signatures into it (exhibits 22/67 to 22/76). P.W. 18 also identified the CD (mat exhibit 3/2) which had been burnt by constable Krishanu Ghosh and stated that this CD contained the photos and videos as described in seizure list dated 07/8/17 and the label prepared by him and pasted it on the CD case (mat exhibit 3/11) and his signature (mat exhibit 3/12) in the CD. P.W. 18 further stated that the CD contained the signatures of Barun Kumar Nayek, Jyotirmoy Biswas, Krishanu Ghosh and Partha Pradhan and identified their signatures into the CD.

Now, from the order sheet and the deposition of P.W. 7 it had been reflected that sealed envelope where P.W. 18 had marked as exhibits G1 to G9 which the I.O. had send to C.F.S.L. and later on C.F.S.L. sent the said to the Chief Judicial Magistrate Court is properly opened. Moreover, on opening another envelope is present in side it in sealed condition with Gala written government examiner marking Exbt.RPQ1 to RPQ9 was opened before this court in presence of all and on opening another envelope in sealed condition was opened before this court in presence of all and this envelope contained exhibits 22/18 to 22/26.

From the order sheet and the deposition of P.W. 8 it had been reflected that sealed envelope where P.W. 18 had marked exhibit H which the I.O. had send to C.F.S.L. and later on C.F.S.L. sent the said to the Chief Judicial Magistrate Court is properly opened and the sealed envelope contained Gala of C.F.S.L was written into it and a packet was present there.

The following are marked as exhibits in the envelope where P.W. 18 had written Exhibits G1 to G9 u/s 294 Cr. PC.

Exhibit 22/45 - Signature of Dr. P. Paul Ramesh in the envelope where it is written CFSL(K)/EE/2017/FED/WB/1548/P-3184.

Exhibit 22/46 - Envelope where CFSL(K)/EE/2017/FED/WB/1548/P-3184 is written.

Exhibit 22/47 - Signature of L. Nato Singh in the envelope which contained EXBT: RPQ1 to RPQ9.

Exhibit 22/48 - Envelope which contained EXBT RPQ1 to RPQ9.

Exhibit 22/48 (A) - Signature of Dr. P. Paul Ramesh and seal in the envelope which contained EXBT: RPQ1 to RPQ9.

Exhibits 22/49 to 22/57 - Signatures of Dr. P. Paul Ramesh and seal written examined, CFSL, Kolkata in exhibits 22/18 to 22/26.

Exhibits 22/58 to 22/66 - Signatures of L. Nato Singh in exhibits 22/18 to 22/26.

Exhibit 22/77 - Signature of L. Nato Singh in exhibit 22/67.

The following are marked as exhibits in the envelope where P.W. 18 had written Exhibit H u/s 294 Cr. PC.

Mat exhibit 3/5 - Signature of Dr. P. Paul Ramesh in the envelope where EXBT: CDQ1 is written.

Mat exhibit 3/6 - Signature of L. Nato Singh in the envelope where EXBT: CDQ1 is written.

Mat exhibit 3/7 - Envelope where EXBT: CDQ1 is written.

Mat exhibit 3/8 - Signature of Dr. P. Paul Ramesh along with seal in the mat exhibit 3/2.

Mat exhibit 3/9 - Signature of Dr. P. Paul Ramesh with seal in the envelope where Exhibit H is written.

Mat exhibit 3/13 - Signature of L. Nato Singh in the label in mat exhibit 3/11.

Mat exhibit 3/14 - Signature of L. Nato Singh in mat exhibit 3/2.

So, it appears before this court that on 07/8/17 P.W. 1 gave consent in writing to capture her photos and videos for the purpose of investigation and it appears from exhibit 5 that P.W. 1 gave her consent voluntarily to capture her photos and video and P.W. 2 who is the father of P.W. 1 also corroborated with the evidence of P.W. 1 and also signed on the said document. P.W. 18 stated that on 07/8/17 P.W. 1 came with her father and he sent a requisition after getting approval from superior to Smt. Kakali Ghosh Kundu, Inspector of police, O/C, POWC, Cell, CID, West Bengal and P.W. 7 admitted it that Atanu Santra took consent from victim for taking her photography and video and victim gave her consent in writing for taking her photography and video and corroborated the evidence with P.W. 18. This court finds from exhibit 5/3 that that P.W. 7 had given her endorsement that photography was taken in her presence with utmost modesty and P.W. 7 also signed into it. It also appears from the evidence of P.W. 18 who sent requisition to O/C, Photography Bureau, CID, West Bengal to depute competent photographer for digital photography of victim and further requested to provide the photos and videos of the concerned victim in soft copy as well as in hard copy with proper certificate u/s 65 B of the Indian Evidence Act and O/C Photography Cell, CID, West Bengal and engaged constable Krishanu Ghosh for computer processing and ASI Partha Pradhan for still and video photography. From exhibit 21 this court finds that there is such endorsement in exhibit 21/2 and P.W. 18 also signed into it (exhibit 21/1). Exhibit 5/5 shows the requisition sent to O/C, Photography Cell, CID, West Bengal and it bears the signature of P.W. 18 and this court finds it is in connection with this case P.W. 18 had sent requisition. So, what this court finds now that P.W. 1 had given her consent and P.W. 2 corroborated it and in presence of P.W. 7 the witness P.W. 8 with video camera and with still camera in presence of P.W. 7 captured video and photography and later came to know that he had recorded video and captured photo of victim's name in connection with Panskura P.S. case no. 381/17 and handed over the video camera and still camera to the constable of his cell namely Krishanu Ghosh and P.W. 8 identified the endorsement of his O/C (exhibit 21). P.W. 9 also corroborated with the evidences and stated P.W. 18 gave requisition to O/C Photography Cell and the requisition

was relating to taking of photographs of a victim in connection with Panskura P.S. case No. 381/17 and then his O/C Gopal Nath deputed ASI Partha Pradhan and him for taking photographs and as per direction as stated in the requisition in presence of lady Inspector Kakali Ghosh Kundu, ASI Partha Pradhan captured video and pictures of the victim and handed the video camera and still camera which contained the captured video and pictures of the victim to him. P.W. 9 also stated that from official computer he had printed out nine photos of the victim and burnt the video in a CD and then he handed over the said nine photographs and had identified those nine photos and CD and also issued certificate u/s 65 B of Indian Evidence Act and also identified the certificate. The witness P.W. 8 also supported the evidence of P.W. 9 by identifying the CD burnt by P.W. 9, the nine photos printed out by P.W. 9 and the certificate u/s 65 B of Indian Evidence Act issued by P.W. 9 and his signatures. This court also finds that P.W. 7 also identified nine photos of victim (exhibits 22/18 to 22/26). P.W. 9 also stated that he had handed over nine photos of victim, the CD and the certificate u/s 65 B of Indian Evidence Act to P.W. 18 who has prepared seizure list and named SI Barun Kumar Nayek and SI Jyotirmoy Biswas as seizure witnesses and identified his signature and the signature and date of Jyotirmoy Biswas in the seizure list dt. 07/8/17. P.W. 11 also supported the prosecution case and stated that on 07/8/17 victim along with her father came to CID and Atanu Santra the I.O. of this case gave a requisition to the Photography Cell to capture the video and still pictures of victim and in presence of P.W. 7 in the Photography Cell, ASI Partha Pradhan captured video and still pictures of victim in two cameras and handed over the two cameras to Krishanu Ghosh who then burnt the video in a C.D. from the computer as provided by the office and printed nine photos from the official colour printer and after that the I.O. of this case Atanu Santra seized those CD and nine photographs of victim from Krishanu Ghosh and P.W. 11 signed into the seizure list as a witness and the signature of SI Jyotirmoy Biswas and Krishanu Ghosh also signed on the seizure list from whom the CD and nine photographs of victim were seized. P.W. 11 also identified his signatures in the seized articles and the signatures of SI Jyotirmoy Biswas. P.W. 18 who the I.O. of the case stated that on 07/8/17 P.W. 1 along with P.W. 2 came to CID, Cyber Cell and identified the seizure

list and the seized articles, the requisitions. P.W. 18 stated the details of the seized articles in seizure list dt. 07/8/17 and there was mention of the certificate u/s 65 B of the Indian Evidence Act and this court thus holds that the seizure list is properly done and there are no contradictions at all as all the prosecution witnesses supported regarding taking of photos and video of P.W. 1 and the procedure followed thereafter till the seizure list was prepared. It has been clearly stated by P.W. 18 in his examination in chief that he had sent requisition for digital photography of victim and further requested to provide the photos and videos of the concerned victim in soft copy as well as in hard copy with proper certificate u/s 65 B of the Indian Evidence Act and P.W. 8 supported this in his cross examination when P.W. 8 stated that "*The camera contained memory card and not reel*". Thus this seizure list has been duly proved by the prosecution.

Now, it also appears that P.W. 18 had marked as exhibit G1 to G9 to the nine photos of P.W. 1 which he had seized from P.W. 9 and stated the details about the folder and files names which contained in the CD (mat exhibit 3/2) in order to sent it to CFSL and in total P.W. 18 had sent five packets which P.W. 18 had marked as exhibit C, exhibit D, exhibit E, exhibits G1 to G9 and exhibit H. P.W. 18 identified the duplicate CFSL form (exhibit 53) which had been prepared and typed by him in the same mechanical process of the original form and those forms had been forwarded before the Chief Judicial Magistrate, Purba Medinipur along with the exhibit B, exhibit C, exhibit D, exhibit E, exhibits G1 to G9 and exhibit H which was duly packed, labeled and signed by him and Ld. Chief Judicial Magistrate, Purba Medinipur duly forwarded the same and the original form was sent to CFSL, Kolkata along with the exhibit B, exhibit C, exhibit D, exhibit E, exhibits G1 to G9 and exhibit H and the duplicate form was kept with the case docket and on 21/8/17 P.W. 18 had submitted the original CFSL form along with the exhibit B, exhibit C, exhibit D, exhibit E, exhibits G1 to G9 and exhibit H and identified the receipt of the same from CFSL, Kolkata (exhibit 54) and the case file no. is CFSL(K)/EE/2017/FED/WB/1548 dt. 21/8/17.

From exhibit 38 it appears that it is the forwarding letter addressed to Ld. Chief Judicial Magistrate, Tamruk, Purba Medinipur from the Director of CFSL, Kolkata and where the Forensic

Examination Report no. is mentioned as CFSL(K)/EE/2017/FED/WB/1548/P-3184 and from exhibit 39 it appears it is in connection with Panskura P.S. case no. 381/17 and on the "Description of Exhibits" it is clearly stated about the details of exhibit C, exhibit D, exhibit E, exhibits G1 to G9 and exhibit H which P.W. 18 had sent to CFSL duly forwarded by Ld. Chief Judicial Magistrate, Tamruk, Purba Medinipur. On careful perusal of exhibit 39 this court finds the exact URL links which are mentioned in the certificates u/s 65 B of the Indian Evidence Act (exhibits 23/4, 27/6 to 27/11 and 42) and which P.W. 18 also stated in his examination in chief and the details of the file names. From exhibit 39 this court further finds it is written that the girl who is present in "Exhibit H" was found to be same in exhibits C, D, E and also with the exhibits G1 to G9. This court further finds from the said report that the video files "victim's name daughter of victim's father name (victim's father another name) - Pornhub.com of the exhibit C with the other video files contained in exhibit D and E and the girls present in the photographs as exhibits G1 to G9 was found to be same. This report had been duly signed by Dr. P. Paul Ramesh along with seal (exhibits 39/1 to 39/6). Now from exhibit 40 this court finds that it is a forwarding letter by the Director, CFSL addressed to Chief Judicial Magistrate, Tamruk, Purba Medinipur (exhibit 40) and exhibit 41 shows the forensic examination report where it is mentioned about all the URL links and the necessary details in it and duly signed along with seal (exhibits 41/1 to 41/5).

Now, P.W. 1 in the written complaint (exhibit 1) mentioned about the alleged link as in www.pornhub.com (*The detailed URL link is not mentioned in this judgment by this court to protect the privacy of the victim*) and even in her evidence also stated that the website name is pornhub and the link is big but the last three digits of the said link is 224 and this court finds the last three digits of the URL as stated in exhibit 1 is 224 which exactly P.W. 1 stated in her evidence. The witness P.W. 11 also stated in his evidence that Animesh Boxi showed the "URL" where he had uploaded the nude pictures and video of his lover victim in the computer as provided by his office and the search words which Animesh Boxi used as a specific unique string was "victim's name daughter of victim's father name" and the first search result was shown and on the first pop up the domain which was

showed is <https://www.pornhub.com> and that specific URL ends with “badF224” and so P.W. 11 also stated about the URL and that it ends with “badF224” and this court finds that the URL which is mentioned in exhibit 1 ends with “badF224”. P.W. 11 burnt the content of the URL and which P.W. 18 had marked exhibit C and sent to CFSL and from the CFSL report this court finds that the girl who is present in “Exhibit H” was found to be same in exhibits C, D, E and also with the exhibits G1 to G9. This court further finds from the said report that the video file “victim daughter of victim father’s name” – Pornhub.com of the exhibit C with the other video files contained in exhibit D and E and the girl present in the photographs as exhibits G1 to G9 was found to be same and exhibit C contains the downloaded video contents of the URL which is mentioned in exhibit 1. Moreover P.W. 1 herself stated that the video belongs to her. So, now this court can safely presume that the girl who is present exhibit C and other exhibits is the victim i.e. the complainant of this case. So, this court can hold that the nude pictures and videos of the victim had been uploaded in various websites apart from the website www.pornhub.com as the mat exhibits 2/8 and 5/3 contained the download videos of others websites URL links and mat exhibit 4/3 contained the downloaded video of the URL which is mentioned in the written complaint and CFSL report shows that the girl who is present in the videos in mat exhibits 2/8, 5/3 and 4/3 are the same with that of the contents of mat exhibit 3/2 which contained the photos and video of P.W. 1 which P.W. 1 had given consent to capture her photos and video in the Photography Cell, CID and later on it was burnt in the CD by P.W. 10 who also issued certificate u/s 65 B of the Indian Evidence Act.

At the time of argument the Ld. Special PP relied upon a citation reported in (1972) 1 Supreme Court Cases 249 where it was held that “Report of Director from Finger Print Bureau can be used without examining person giving such report”. In this present case the CFSL report has been marked as exhibit on the basis of the petition u/s 294 Cr. PC and that petition was allowed by this court after hearing both the parties and that order had not been challenge from the defense side before any higher forum. So, this court relies upon the CFSL report which stated that the girl who is present in “Exhibit H” was found to be same in exhibits C, D, E and also with the exhibits G1 to G9.

P.W. 12 in his evidence stated that on 14/9/2017 an email was received regarding a requisition from CID, Cyber Cell, Mr. Atanu Santra I.O. in connection with Panskura P.S. case number 381/17 in the official email id and according to the said requisition there was a phone number 9733185096 stating whether there is any bank account with this mobile number and if there is any bank account then the bank statement since its opening till 14/9/17 and on searching from UBI centralized server data base and found that there is a customer id with this phone number with savings account number 1358010209038 and it belongs to Animesh Boxi, S/O Purnendu Boxi, P.S. Panskura, Dist. Purba Medinipur and downloaded details of account number 1358010209038 along with a forwarding letter and he had written and signed into it. P.W. 18 identified the forwarding letter (exhibit 29) and his signature into it (exhibit 29/1). P.W. 12 also identified the transaction inquiry containing 7 pages in respect of account number 1358010209038 downloaded from UBI centralized server data base and at the bottom of each page the IP address is mentioned along with his signature and seal and printed from the printer attached to his official computer (exhibit 30). P.W. 12 also issued a certificate u/s 65 B of the Indian Evidence Act (exhibit 31) and also signed into it (exhibit 31/1) which was prepared and signed by him to prove the authenticity of exhibit 30 and also a certificate u/s 2A(a) of the Banker's Books Evidence Act (exhibit 32) prepared and signed by him (exhibit 32/1) in respect of account number 1358010209038.

P.W. 18 stated that on 14/9/17 he met with Chief Manager of United Bank of India, Chittaranjan Avenue Branch at his office and P.W. 12 handed over the documents upon his requisition and those documents are one letter vide Memo number UBI/CHV/CID/HD/2017 dated 14/9/2017 (exhibit 29) in which the mobile number 9733185096 is registered with the UBI's savings account no. 1358010209038 in the name of Animesh Boxi s/o Purnendu Boxi, P.S. Panskura, Dist. Purba Medinipur which was opened on 06/09/2013, bank statement of the concerned account since opening and a copy of specimen card of the account available in centralized system database of UBI and identified the forwarding letter (exhibit 29) and the transaction inquiry containing seven pages in respect of account number 1358010209038 being the account of Animesh Boxi (exhibit

31) and P.W. 18 further stated that if Mr. Sanjib Kumar Dutta stated him that if he would be summoned by Ld. Court then he would give the certificate u/s 65 B of the Indian Evidence Act, certificate u/s 2A (a) of the Banker's Books Evidence Act and P.W. 18 reflected it in his case docket.

From exhibit 29 this court finds that it has been on the letter head United Bank of India duly signed by Chief Manager and it has been stated that the mobile number 9733185096 is registered with the savings account 1358010209038 in the name of Animesh Boxi s/o Purnendu Boxi PS - Panskura, District - Purba Medinipur. From exhibit 30 this court finds the transaction inquiry of the bank account number 1358010209038 which is in the name of Animesh Boxi and the mobile number is 9733185096. This court further finds from exhibit 30 that the account is still active and there is deduction for SMS charges too by the bank as ₹9/- is being deducted by the bank as SMS charges 2016 which means the regular SMS regarding transaction alert is being sent to the mobile number 9733185096. There is seal of the bank along with signature and the IP address at the bottom of each pages containing 7 pages in total in exhibit 30.

Now, this court finds from the admission form of Animesh Boxi (exhibit 10) the mobile number 9733185096 and this is the same mobile number with which the account number 1358010209038 has been opened by Animesh Boxi and this court already hold that the admission form had been filled up by Animesh Boxi and thus this court can presume that the accused Animesh Boxi is using the mobile number 9733185096.

Now the question is under whose name the mobile number 9733185096 is registered. P.W. 18 stated that on 21/9/2017 he sent requisition through constable Subhrajit Santra of monitoring unit, CID, West Bengal to the Nodal Officer, Vodafone Mobile Services Ltd at Constantia Office Complex 11, Dr. U.N. Brahmachari Road, Kolkata 17 for computer output i.e. hard copy of IPDR with destination IP and CAF along with ID proof of customer in respect of mobile connection number 9733185096 from the time period 06/8/15 to 21/8/17 with a request to issue proper certificate u/s 65 B of Indian Evidence Act in respect of aforesaid document.

P.W. 13 is the Alternate Nodal Officer, Vodafone who had received requisition from CID regarding authenticate of IPDR against mobile number 9733185096 along with CAF (Customer Application Form) and provided data along with CAF as per the requisition in Vodafone letter head (exhibit 33) and duly signed into it (exhibit 33/1). P.W. 13 also issued certificate u/s 65 B of the Indian Evidence Act (exhibit 34) to prove the authenticity and justification of the CD data duly signed by him (exhibit 34/1) as he had given IPDR data in a CD (mat exhibit 6) and also signed into it (mat exhibit 6/1). According to P.W. 13 the original CAF (exhibit 35) is in the name of Barnali Bakshi with mobile number 9733185096 and identified the signature of distributor point namely Arati Mobile Counter (exhibit 35/6). P.W. 13 also stated that the proof of identity was also submitted by Barnali Bakshi for mobile number 9733185096 and identified the signature of distributor point namely Arati Mobile Counter (exhibit 35/2).

On the requisition dated 21/9/17 P.W. 18 received some articles from Mohan Thapa, Alternate Nodal Officer, Vodafone Mobile Services Ltd through constable Subhrajit Santra of monitoring unit, CID, West Bengal which P.W. 18 seized under proper seizure list and one moserbaer Pro compact disk duly signed by Mohan Thapa which contained IPDR data of the mobile number 9733185096 for the period of last one year, authenticated CAF of mobile number 9733185096, certificate u/s 65 B of Indian Evidence Act and duly issued and signed by Mohan Thapa. P.W. 18 prepared seizure list in presence of seizure witnesses Barun Kumar Nayek and Jayanta Sarkar as produced by constable Subhrajit Santra and it bears the signatures of the seizure witnesses and from whom it was seized and also his signature along with date and identified the signature and date of constable Subhrajit Santra (exhibit 57) as he works in monitoring unit, CID, West Bengal. P.W. 18 also identified the signature and date of Barun Kumar Nayek (exhibit 57/1) and the signature of Jayanta Sarkar (exhibit 57/2) as Barun Kumar Nayek and Jayanta Sarkar works in the unit of P.W. 18. The witness P.W. 18 also identified his signature (exhibit 57/3) and the seizure list which had been prepared by him (exhibit 57/4). P.W. 18 identified the forwarding letter (exhibit 33) issued by Mohan Thapa and certificate u/s 65 B of the Indian Evidence Act (exhibit 34), the original CAF (exhibit 35) and also a copy of CD and P.W. 18 tried to open the CD of I.O.'s copy with the password provided by Mohan

Thapa but the file inside the CD was not opening and so he contacted with Mohan Thapa for another copy of CD and for original CAF of mobile number 9733185096 who told that he would bring and produce the IPDR again in separate DVD and original CAF of the mobile number 9733185096 in the Ld. Court if he was summoned at the time of trial.

Now on perusal of exhibit 33 this court finds that it is for the IPDR against the mobile number 9733185096 duly signed by P.W. 13 Mohan Thapa. On the reverse side of exhibit 33 there is endorsement of P.W. 18 along with his signature and date (exhibit 33/2) and from that endorsement this court finds it is in connection with Panskura P.S. case no. 381/17. From exhibit 34 this court finds that it is the certificate u/s 65 B of the Indian Evidence Act issued by Mohan Thapa who also signed into it and on the reverse side of exhibit 34 there is endorsement of P.W. 18 along with his signature and date (exhibit 34/2) and from that endorsement this court finds it is in connection with Panskura P.S. case no. 381/17. So, exhibits 33 and 34 are in connection with this case for which the I.O. had seized and prepared seizure list dt. 16/10/17 (exhibit 57). On perusal of exhibit 57 this court finds that it has been properly signed by the witnesses, also signed from whom it was seized and also by P.W. 18. From exhibit 34 this court finds that it is the CAF (Customer Information Form) and it is in the name Barnali Bakshi and the name Purnendu Bokshi is in the column Father/Mother's/Husband's name column and from formal FIR (exhibit 2/1) this court finds that Purnendu Boxi is the father of the accused Animesh Boxi which means that Barnali Bakshi is the mother of the accused Animesh Boxi and so the mobile number 9733185096 is within the Boxi family and with this mobile number Animesh Boxi has got bank account and also mentioned it in his admission form as mobile number of student so this court can safely presume that Animesh Boxi is the one who is using the mobile number 9733185096 even though the service connection is in the name of his mother. Moreover, if the mobile number is within the Boxi family then Animesh Boxi being the member of the Boxi family has got the maximum chance to use this mobile number 9733185096. This court already hold that Animesh Boxi had filled the admission form (exhibit 10) and on perusal of exhibit 10 this court finds the date written as 21/7/14 when there was no Panskura P.S. case no. 381/17 and generally it will

be presumed at that time being a student the admission form would be filled up by furnishing correct informations by Animesh Boxi i.e. the email address and the mobile phone number. In the context Ld. Special PP relied a citation *AIR 1957 AP 595 : 1957 Cr LJ 1069* where it was held that "*Best available evidence should be brought before the court*" and argued that here the electronic evidences are brought as screen shots and in some CDs and DVDs and P.W. 13 being nodal of Vodafone has produced and proved the original CAF from his custody and hence the authenticated copy of the same is lesser significant evidence compared to the original one.

P.W. 17 stated that on 21/7/17 he went to Panskura P.S. and a complaint has been received by the O/C, of the P.S. which is related to I.T. Act and S.P. sir ordered him to investigate the case and identified the formal FIR (exhibit 2/1). P.W. 17 also identified the endorsement of the then O/C, SI Modan Mohan Roy in the written complaint (exhibit 1/7). P.W. 17 also stated that victim also submitted screen shots along with the written complaint and he put those screen shots in an envelope and identified the endorsement into it (exhibit 1/8) and the signature of SI, Raban Hembram into the envelope (exhibit 1/9). P.W. 17 also identified the three screen shots (exhibits 1/4, 1/5 and 1/6). P.W. 17 further stated then with force of Panskura P.S. he went to the house of Animesh Boxi to arrest him as per the address mentioned in the written complaint and formal FIR and conducted raid at the house of Animesh and found him and arrested him and then he interrogated Animesh Boxi and he confessed that he had got the laptop and the mobile phone with sim card through which he had uploaded the photos and videos and he had got the said laptop and the mobile phone at home and he could hand over the same and the accused took them to his bed room on 1st floor and handed over one HP laptop (mat exhibit 7), one mobile phone of the brand Moto company (mat exhibit 8) with IMEI numbers 358960061307271 and 358960061307289 and on opening the tray P.W. 17 found one Jio sim card (mat exhibit 8/6), one Vodafone sim (mat exhibit 8/5) and one micro SD card of 16 GB of the company Sandisk Ultra (mat exhibit 8/7) and then P.W. 17 had seized these items and identified the seizure list (exhibit 36/1). P.W. 17 also stated that Ardhendu Sekhar Bakshi and Amalendu Sekhar Bakshi who are the uncles of Animesh had signed on the seizure list as witnesses and also ASI Prabir Saha.

P.W. 17 also stated that the accused after seizure told him that he had got an account in www.pornhub.com and with his gmail mail account animeshbokshi18@gmail.com and uploaded nude videos to pornhub website and also told P.W. 17 that few days ago without knowing victim transferred her nude video from her mobile phone and he has also got another mail id animeshboxi19@gmail.com. Ld. Special PP at the time of argument referred a citation 39 CWN 368;37 CrLJ 775 where it was held that *"Statement of the accused accompanying or explaining his conduct is relevant"* and this court finds that P.W. 17 stated *"The accused after seizure told me that he had got an account in www.pornhub.com and with his gmail mail account animeshbokshi18@gmail.com uploaded nude videos to pornhub website. He also told me that few days ago without knowing victim he transferred her nude video from her mobile phone and he has also got another mail id animeshboxi19@gmail.com. and this is the said statement of the accused"* and thus statement of the accused is explaining his conduct and is relevant. Ld. Special PP at the time of argument relied a citation reported in AIR 1971 SC 28 where it was held that *"Evidence of investigating Officer conducting a search may be relied upon. Corroboration not necessary"*. Ld. Special PP at the time of argument relied a another citation reported in AIR 1960 SC 500 ; 1960 CrLJ 682 where it was held that *"Piece of conduct can be held to be incriminating which has no reasonable explanation except on the hypothesis that he is guilty. Conduct which destroys the presumption of innocence is material"*.

P.W. 14 stated that on the night of 21/7/2017 he went to the house of the accused Animesh Boxi and there the accused told P.W. 17 that the mobile phone was with him and took them to the first floor of the house and gave his mobile phone and his laptop in the hands of C.I. saheb who then prepared seizure list and the articles were HP laptop, the mobile phone with the name Motorola, two sim cards one of Vodafone and another Jio and one SD memory card and he had signed (exhibit 36) on the seizure list as a witness. P.W. 14 also stated that Animesh's uncle Ardhendu Seshar Boxi and Amalendu Sekhar Boxi also signed on the seizure list in his presence. P.W. 14 identified mat exhibit 7 and mat exhibit 8. In this context Ld. Special PP relied a citation *State vs Navjot Sandhu (2005)11 SCC 600: 2005 Cr LJ 3950* where it was held that *"There is no such inflexible position*

of law that in the absence of independent witnesses being associated with search, the seizure cannot be relied upon” and Ram Kumar vs State (NCT) of Delhi AIR 1999 SC 2259 where it was held that “Where no independent witness is available, the evidence of the police officers can not be discarded when it is found to be reliable”. The Ld. Lawyer for the accused at the time of argument referred a citations (1997) 10 Supreme Court Cases 44 and AIR 1981 Cal 157 and on perusal of the said citations this court finds that those are not applicable in this case. If the seizure list was not proper then the defense side could have adduced the evidences of Ardhendu Seshar Boxi and Amalendu Sekhar Boxi in D.W. as record shows that Ardhendu Seshar Boxi and Amalendu Sekhar Boxi also signed on the seizure list and it also appears from the case record that Ardhendu Seshar Boxi and Amalendu Sekhar Boxi are the uncles of the accused.

P.W. 18 stated that O/C Panskura through proper challan handed over the seized articles namely one HP Invent Laptop having serial no. CND4348N8B model no. 15-RO74TU along with its power adaptor, one Moto mobile phone having model no. XT1635-02, IMEI No. 358960061307271 and 358960061307289 fitted with one Vodafone sim having ICCID no. 89916716237800183385Y and one Jio sim over which black mark K1 is there as ICCID is illegible and one sandisk ultra micro SD card of 16 GB and P.W. 18 had marked the articles as exhibits A and B respectively and identified all the seized articles before the court and after receiving the seized mobile and its charger along with the two sim cards and the SD card P.W. 18 put the same in an envelope and prepared label typed by him and signed by him and addressed to the Director, CFSL as P.W. 18 wanted to send the same to the CFSL. P.W. 18 identified the said envelope along with the said label (mat exhibit 8/8). P.W. 18 also stated that on 21/8/17 he sent the these articles to the Director, CFSL, Kolkata duly forwarded by Ld. Chief Judicial Magistrate, Purba Medinipur and those exhibits are one Moto mobile phone having model no. XT1635-02, IMEI No. 358960061307271 and 358960061307289 fitted with one Vodafone sim and one Jio sim. P.W. 18 identified the duplicate CFSL form (exhibit 53).

So, it appears that the seizure witness P.W. 14 identified the seized articles the HP laptop and the mobile phone. Ld. Lawyer for the

accused at the time of argument pointed out that P.W. 14 failed to identify the two sim cards and the SD card. It will be wrong to say that P.W. 14 failed to identify the two sim cards (mat exhibits 8/5 and 8/6) and the SD card (mat exhibit 8/7) as because P.W. 14 in his examination in chief had mentioned these articles. Moreover, record shows that during the evidence of P.W. 14 these seized articles were opened from sealed envelopes and after that these seized articles were kept in the Malkhana of the court. Later P.W. 17 identified the two sim cards (mat exhibits 8/5 and 8/6) and the SD card (mat exhibit 8/7). One thing this court noticed in the deposition of P.W. 17 that P.W. 17 by using a pin opened the sim tray in presence of all which contained the mat exhibits 8/5, 8/6 and 8/7. But the sim tray was not opened at the time of evidence of P.W. 14 and P.W. 14 had mentioned the seized articles and these articles were within the mobile phone itself. On perusal of exhibit 36/1 this court finds that it had been signed by P.W. 14 who identified it and P.W. 17 also identified the seizure list and the seized articles. The place of seizure in the seizure list is the same place which P.W. 14 and P.W. 17 stated. It is clearly stated in exhibit 36/1 that the mobile phone is fitted with one Vodafone sim and one Jio sim and micro SD card which means inside the mobile phone. P.W. 14 had identified the mobile phone (mat exhibit 8) and mat exhibits 8/5, 8/6 and 8/7 was inside the mobile phone. There is nothing in the cross examination of either P.W. 14 or P.W. 17 that there was no search and seizure or that the search and seizure was not proper. Thus this seizure list (exhibit 36/1) is proper. In *S.C Bahri V. State of Bihar AIR 1994 SC 2420* it was held that "*the statements of accused persons were not reduced to writing, that also will not prevent the applicability of Section 27 of the Evidence Act. Failure to record the disclosure statement is not fatal to the prosecution. What is important is that the investigating officer should credibly depose before Court regarding the fact discovered.*" Ld. Special PP at the time of argument relied a citation reported in *AIR 1955 SC 104 : 1955 CrLJ 196* where it was held that "*Accused made statement and led police to a who dug out incriminating articles from under earth at the instance of the accused. It is no evidence under section 27. It is evidence of conduct of the accused admissible against him along.*" and also *AIR 1979 SC 400 : 1979 CrLJ 329* where it was held that "*Conduct of an accused during the course of an*

investigation is admissible.” and this court finds that these citations are applicable in this case. In this present case exhibit 36/1 i.e. the seizure list dated 21/7/2017 proves the fact that the seizure was made after been led, shown, brought out, identified and produced by the accused which is duly proved by the deposition of P.W. 17 in his examination in chief, when he stated - *“Then I interrogated Animesh Boxi and he confessed that he had got the laptop and the mobile phone with sim card through which he had uploaded the photos and videos and he had got the said laptop and the mobile phone at home and he could hand over the same to us”*.

On perusal of exhibit 53 this court finds that this court finds that it had been duly forwarded by Ld. Chief Judicial Magistrate, Purba Medinipur and in serial no. 1 the mobile phone with the same IMEI numbers along with two sim cards and SD card which are mentioned in exhibit 36/1 and seized from accused Animesh Boxi. This court further finds from exhibit 53 that it was asked whether through Exhibit B (which P.W. 18 had marked) was used to access the email id animeshbokshi18@gmail.com and animeshboxi19@gmail.com . Now on perusal of exhibit 41 this court finds that it has been stated in the report that “Synchronized email account as on dated 21/7/2017 at 1:36 am and 21/7/2017 at 1:35 am pertaining to email id animeshbokshi18@gmail.com and animeshboxi19@gmail.com on Google account could be found in the mobile phone (mat exhibit 8) and screen shot was also annexed with the report. From exhibit 41 this court further finds regarding device information the IMEI number 358960061307271. Ld. Special PP at the time of argument relied a citation reported in *K. Ramajayam v Inspector of Police 2016 Cr LJ 1542 (Mad)* where it was held that *“it is axiomatic that the opinion of an expert, which is relevant under sec. 45 of the Indian Evidence Act, 1872, when accepted by the court graduates into the opinion of the court”* and argued that here the expert opinion of hand writing expert and CFSL experts.

So, to hold this court finds that mat exhibit 8 was seized from the possession of the accused Animesh Boxi and from mat exhibit 8 the email address animeshbokshi18@gmail.com was accessed as per the CFSL report and this is the same email address who accused Animesh Boxi wrote by himself in his admission form (exhibit 10) and

from CFSL report the IMEI no. of mat exhibit 8 is 358960061307271. Moreover, this mat exhibit 8 was fitted with one Vodafone sim and Jio sim and one micro SD card (mat exhibits 8/5, 8/6 and 8/7).

Now, P.W. 18 in his evidence stated that on 23/7/17 he had sent notice u/s 91 of Cr. P.C from official email id of O/C, Cyber Cell, CID, West Bengal and mail id is occyber.cid-wb@gov.in to the competent authority of Google Inc. for providing creation and registration details including IP address with specific date and time and time zone, log in/logout details including IP address details with port number in respect of specific date, time and time zone of following two mail ids of the accused Animesh Boxi and the email ids were animeshbokshi18@gmail.com and animeshboxi19@gmail.com and sent the scanned copy of notice u/s 91 of Cr. P.C to email id of Google Authority having mail id lis-apac@google.com as attachment and the original is kept in case docket and the original notice u/s 91 Cr. PC (exhibit 50) which was prepared and signed by P.W. 18 along with date. The email id animeshbokshi18@gmail.com is mentioned in exhibit 10 i.e. the admission form of Animesh Boxi and this court already hold the admission form had been filled by Animesh Boxi himself. On perusal of exhibit 50 this court finds that it had been addressed to the Competent Authority, Google Inc., 1600 Amphitheatre Parkway, Mountain View, CA - 94043, USA and it was sent in connection with Panskura PS case no. 381/17 duly signed by P.W. 18 along with signature and informations had been sought for email ids were animeshbokshi18@gmail.com and animeshboxi19@gmail.com and had been duly signed by P.W. 18.

P.W. 18 further stated that on 28/7/17 requisition was sent to the Competent Authority where the nude videos of the complainant cum victim had been uploaded by the FIR named accused to provide the registration details of video uploader including registered mobile number, email id along with IP address with specific date and time and also requested to remove those videos from websites for the modesty and privacy of the complainant cum victim and mentioned the names of the URL of the websites www.pornhub.com along with the URL of the other websites. P.W. 18 further stated that the scanned copies of those requisition were sent to their respective email addresses as attachment file and the originals are kept with the case

docket. P.W. 18 identified the original notice u/s 91 of Cr. P.C which had been prepared and signed by him (exhibit 51) and sent the scan copy of the notice as attachment to the Competent Authority, www.pornhub.com by using the official email id of O/C, Cyber Cell, CID, West Bengal and mail id is occyber.cid-wb@gov.in . On perusal of exhibit 51 this court finds that it had been addressed to the Competent Authority, www.pornhub.com and it was sent in connection with Panskura PS case no. 381/17 duly signed by P.W. 18 along with signature and informations had been sought for the video uploader registration details and to remove the questionable video and five URL links are mentioned and this court finds that the first URL is that link which is mentioned in the written complaint.

P.W. 11 stated that on 19/8/17 from the official computer of his cell he had downloaded the email communications which the I.O. had sent to Google Law Enforcement and Pornhub Law Enforcement from official email id occyber.cid-wb@gov.in and reply from Google Law Enforcement and Pornhub Law Enforcement and had printed the same from the official printer and for using the official email address for this period and for doing this job Inspector Rajarshi Banerjee, O/C, Cyber Cell, CID, West Bengal gave him authorization and then Atanu Santra seized all the printed documents from him in presence of seizure witnesses and prepared seizure list and Inspector Rajarshi Banerjee and constable Ganesh Mondal signed on the seizure list as a witness. P.W. 11 identified the seizure list and his signature along with date (exhibit 6/2). P.W. 11 further stated that he had issued a certificate u/s 65 B of Indian Evidence Act for authenticity of the downloaded printed email communications regarding the request and the response of Google Law Enforcement and Pornhub Law Enforcement and handed over the same to the I.O. of this case and on each of the six pages he had endorsed his signatures along with date and written “computer output made by me” and identified the email communications which were downloaded and printed in between official email id and Google Law Enforcement and his signatures, date and endorsement in it (exhibits 8/8 to 8/11) and the first two pages contained the request letter by the I.O. to the Google Law Enforcement and response from Google Authority with mentioning attachment file and the name of the attachment file is “animeshbokshi18.AccountInfo.txt” and the next two pages contained the downloaded and printed of the

attachment file "animeshbokshi18.AccountInfo.txt". P.W. 11 further stated that the first two pages of the request letter by the I.O. to the Google Law Enforcement and response from Google Authority with mentioning attachment file and the name of the attachment file is "animeshbokshi18.AccountInfo.txt" (exhibit 8/12) and the last two pages were the print out of the attachment file "animeshbokshi18.AccountInfo.txt" sent by Google Authority (exhibit 8/13). P.W. 11 also identified the the two pages which were downloaded and printed containing the email communication in between the I.O. and Pornhub Law Enforcement (exhibit 7/6) and his signatures along with date and the endorsement "computer output made by me" (exhibit 7/4 and 7/5) and the certificate (exhibit 28/1) u/s 65 B of the Indian Evidence Act for authenticity which had been prepared by P.W. 11 regarding those six pages of the communication and response of Google Law Enforcement and Pornhub Law Enforcement and identified his signature (exhibit 28) and handed over the same to the I.O.

P.W. 3 stated that on 19/8/17 Barun Kumar Nayek, Sub-inspector of Cyber Crime Cell downloaded the email data which had been received in the official email of CID, Cyber Crime Cell and the official email address is occyber.cid-wb@gov.in from Google and Pornhub and the data had been downloaded in connection with Panskura P.S. case no. 381/17 which P.W. 11 had printed and gave the same to the I.O. of this case Atanu Santra who seized it and P.W. 3 identified his signature along with his constable number and date (exhibit 6) and also identified the informations received from the website www.pornhub.com in the official email id occyber.cid-wb@gov.in containing two printed pages and his signatures along with his constable number and date (exhibits 7 and 7/1). P.W. 3 also identified the informations which had been received form the website google.com in the official email id occyber.cid-wb@gov.in which was taken in four printed pages and his signatures along with his constable number and date (exhibits 8 , 8/1, 8/2 and 8/3).

P.W. 4 stated that on 19/8/17 emails came from website pornhub.com and Google.com in the official email i.d. occyber.cid-wb@gov.in in connection with Panskura P.S case no. 381/17 and as per his instructions S.I. Barun Kumar Nayek, Cyber Cell, C.I.D. West

Bengal downloaded the said emails in the official computer and then those were printed from the official printer and handed over to the I.O. of this case Inspector Atanu Santra who then seized those printed documents and prepared seizure list and he was present there and he read over and understanding its content put his signature along with date into the seizure list and identified his signature in the seizure list (exhibit 6/1). P.W. 4 also identified the informations which had been received from the website pornhub.com in the official email id occyber.cid-wb@gov.in containing two printed pages and his signatures along with date (exhibits 7/2 and 7/3) and the informations which had been received from the website google.com in their official email id occyber.cid-wb@gov.in which was taken in four printed pages and identified his signatures along with date (exhibits 8/4, 8/5, 8/6 and 8/7). P.W. 4 further stated that as he is officer-in-charge of the Cyber Cell C.I.D. so being in-charge of the official email i.d. and also in-charge of all the resources so he instructed S.I. Barun Kumar Nayek.

P.W. 18 stated that on 19/8/17 SI Barun Kumar Nayek of Cyber Crime, Investigation Cell, CID, West Bengal handed to him documents along with proper certificate as per provision of section 65 B of Indian Evidence Act which he seized under proper seizure list duly prepared by him and the articles were the computer output i.e. hard copy of email containing two pages received in inbox having header link https://mail.gov.in/iwc_static/layout/shell.html?lang=en&3.0.1.2.0_15121607 of email address occyber.cid-wb@gov.in which is the official email address of O/C, Cyber Crime Investigation Cell, CID, West Bengal from Joyce.Carestia@mindgeek.com which is the email address of Team Lead, Legal Affairs, on behalf of Chantale Pittarelli, Director of Business and Legal Affairs, Pornhub.com and on 04/8/2017 at 03:58 pm which is the mail received date and time and P.W. 18 further stated that the computer output i.e. hard copy of email containing four pages including two attachment which was received in inbox having header link https://mail.gov.in/iwc_static/layout/shell.html?lang=en&3.0.1.2.0_15121607 of email address occyber.cid-wb@gov.in which is the official email address of O/C, Cyber Crime Investigation Cell, CID, West Bengal from lis-apac@google.com which is the email address of Google Inc. Legal Investigation Support on

12/8/2017 at 05:35 am which was the mail received date and time and SI Barun Kumar Nayek downloaded and taken the printouts of the above mentioned hard copies in his official computer. P.W. 18 further stated that SI Barun Kumar Nayek was endorsed for handling the government email account of O/C, Cyber Crime Investigation Cell, CID, West Bengal viz. occyber.cid-wb@gov.in from the period 01/8/17 to 20/8/17 for the interest of public service as well as for the convenience of official work of Cyber Crime Investigation Cell vide order no. 5/17 dated 31/7/17 issued by Officer in Charge, Cyber Crime Investigation Cell Rajarshi Banerjee and produced the certified copy of the said order which had been certified by Rajarshi Banerjee, Officer in Charge, Cyber Crime Investigation Cell, CID, West Bengal (exhibit 52). P.W. 18 then prepared seizure list and Rajarshi Banerjee and constable 573 Ganesh Mondal signed into it as seizure witnesses. P.W. 18 identified the seizure list dt. 19/8/17 (exhibit 6/4) and his signature into it (exhibit 6/4). P.W. 18 identified the response from Pornhub.com which had been received in the official email address of Cyber Crime Investigation Cell, CID, West Bengal viz. occyber.cid-wb@gov.in from the email address Joyce.Carestia@mindgeek.com and identified his signatures along with endorsement and dates in two pages (exhibits 7/7 and 7/8). P.W. 18 also identified the documents (exhibits 8/12 and 8/13) and stated that the first two pages are the communication in email with the Google Inc. Legal Investigation Support and the second two pages are the print out of the attachment file "animeshbokshi18.AccountInfo.txt" and identified the signatures along with endorsement and dates in four pages (exhibits 8/14, 8/15, 8/16 and 8/17) and the certificate u/s 65 B of Indian Evidence Act to prove the authenticity issued by SI, Barun Kumar Nayek. P.W. 18 further stated that he had sent a mail to pornhub.com authority to their email id legal@pornhub.com from the official email id occyber.cid-wb@gov.in to verify whether the mail id Joyce.Carestia@mindgeek.com and the concerned person Joyce Carestia is authorized to answer on behalf of pornhub.com and on 01/9/17 he opened the official mail account occyber.cid-wb@gov.in and read mail dated 24/8/17 and time was 09:16 am received from email id legal@pornhub.com with CC to Joyce.Carestia@mindgeek.com in which it was reported that previous response from email id Joyce.Carestia@mindgeek.com was from their

authorised team lead, on behalf of their legal counsel and P.W. 18 had downloaded the said email using official computer and took print out of the same using official printer and prepared certificate u/s 65 B of the Indian Evidence Act to authenticate the screen shot printout and identified the email printout of the information (exhibit 55) and the certificate u/s 65 B of the Indian Evidence Act to authenticate the screen shot printout (exhibit 56).

On perusal of exhibit 52 this court finds it is the certified copy of the order which P.W. 4 had issued and had endorsed P.W. 11 for handling the official email id of CID, West Bengal for the period 01/8/2017 to 20/8/2017. P.W. 4 had stated this fact into his evidence as well and P.W. 18 had produced the certified as true copy of the same so P.W. 11 had right to access the official email of CID, West Bengal for the period 01/8/2017 to 20/8/2017. It is clear from exhibit 55 that P.W. 18 had written email to the Competent Authority, www.pornhub.com and one reply came with a copy to email id Joyce.Carestia@mindgeek.com and this court finds this email id Joyce.Carestia@mindgeek.com from exhibit 7/6 as well and this exhibit 55 makes it clear before this court that Joyce.Carestia@mindgeek.com can reply to the emails as authorised team lead on behalf of www.pornhub.com. Exhibit 56 shows that it is a certificate u/s 65 B of the Indian Evidence Act issued by P.W. 18 to prove the authenticity of exhibit 55 and on perusal this court finds that it is proper. Now, on perusal of exhibit 7/6 this court finds that one Joyce Carestia had written it from email address Joyce.Carestia@mindgreek.com to the official email address of CID, West Bengal and it is clearly written that the user is listed as deleted but however information had been recovered from the logs and the videos were uploaded by the user Anibokshi from the IP : 47.15.15.236 . In this case from exhibit 7/6 this court finds that the “username” is “Anibokshi”, “email” is animeshbokshi18@gmail.com , “date_added” is “08/08/2015 16:50:43 GMT”, “last_login” is “07/20/2017 11:34:56 GMT”, “status” is “deleted” and “status_reason” is “Self Deleted” and the URL which is mentioned in this exhibit is the same which is stated in the written complaint. Further other URL are also mentioned here. From this informations in exhibit 7/6 this court will take into notice some important informations like the email address animeshbokshi18@gmail.com , last login

07/20/2017 and most important is the IP address 47.15.15.236 . The date and time of the email which had been received is 04/8/17 , 03:58 PM.

From exhibit 8/12 this court finds that it is the reply from Google Inc, Legal Investigations Support and this is that response for which P.W. 18 sent notice to the Competent Authority, Google Inc (exhibit 50). On perusal of exhibit 8/12 this court finds that one attachment had been sent with name "animeshbokshi18.AccountInfo.txt" and exhibit 8/13 is the print out of the attachment file "animeshbokshi18.AccountInfo.txt". On perusal of exhibit 8/13 this court finds details about email id animeshbokshi18@gmail.com and the name is animesh bokshi, status is enabled, and most important is the mobile number for sending SMS is +919733185096.

From exhibit 6/4 which is the seizure list dt. 19/8/17 this court finds that the seizure witnesses signed into it as well as the seized articles i.e. exhibits 7/6, 8/12 and 8/13 and the seizure witnesses P.W. 3 and P.W. 4 also identified their signatures into it as well as the seized articles and P.W. 18 who had seized it identified the seizure list as well the seized articles and there is an endorsement by P.W. 18 in the seized articles which is in connection with Panskura P.S. case no. 381/17 and thus the seizure list (exhibit 6/4) is proved.

Now, this court finds from exhibit 10 the email address who is written is animeshbokshi18@gmail.com and this court already hold that it had been filled by the accused and this email address was accessed by the accused in his mobile phone (mat exhibit 8) as CFSL report shows and exhibit 7/6 which is the reply from Pornhub.com also shows that through this email address animeshbokshi18@gmail.com account was created in www.pornhub.com with username "Anibokshi". Moreover this court finds from exhibit 8/13 that the mobile number +919733185096 is registered with the email address animeshbokshi18@gmail.com . We all know that +91 is the country code of India. So, the mobile number +919733185096 and 9733185096 is the same number within India. This court further finds from exhibit 10 that the mobile number which is registered with the email animeshbokshi18@gmail.com is the same mobile number which is mentioned in exhibit 10 i.e. the admission form of Animesh Boxi, the accused person of this case. Moreover this court finds that the

mobile number 9733185096 is registered with the savings account 1358010209038 in the name of Animesh Boxi s/o Purnendu Boxi PS - Panskura, District - Purba Medinipur. So, in whatever direction we go we can find the name of this accused Animesh Boxi and all are interlinked. This court already hold that the mobile number 9733185096 is within the Boxi family and CAF shows that it is in the name of Barnali Bakshi who is the mother of the accused Animesh Boxi and even though the service connection of mobile number 9733185096 is not in the name of Animesh Boxi but there is a high chance that a family member can use a mobile number even if the service connection is not in his/her name. In this case Animesh Boxi is the son of Barnali Boxi so the accused can use the mobile number 9733185096 but rather this court holds that the accused is using the mobile number 9733185096 when the same is written by his own handwriting in his admission form and with this mobile number there is a bank account in the name of Animesh Boxi. Ld. Special PP at the time of argument relied a citation reported in *AIR 1954 Kutch 22: 1954 Cr LJ 801* where it was held that "*Concealed place will prove knowledge of the accused. Exclusive possession of the concealed place will prove possession of the accused*" and argued that here the log-in account i.e. the email address which is registered with pornhub website with which the accused had uploaded the nude videos of P.W. 1 and its resources are in exclusive possession of accused.

The allegation of the defacto complainant is that the accused had hacked her mobile phone and took away her nude pictures and videos and uploaded in porn website. A question will arise now is that whether victim is known to the accused of this case Animesh Boxi or not. P.W. 1 identified the accused Ani Boxi @ Animesh Bokshi @ Animesh Boxi and stated that she had got friendly relationship with him three years ago and then they had got close relationship for many days and as they came close to each other so the accused demanded from her some personal photos which P.W. 1 did not agree and then the accused used to tell her sentimental words and used to show her annoyance and as P.W. 1 used to love and believed him and so she gave him personal moments pictures and after that the accused used to tell to go for outing with him but P.W. 1 did not agree and so the accused used to tell that he would publish the personal private photos in the social media. P.W. 1 further stated that then she

took some nude pictures and video of her in her mobile phone as the accused told her to do and wanted to see it and demanded it from her but had not given the nude pictures and video of her to him. P.W. 1 further stated that when she had got good relationship with him then the accused used to see her mobile phone and she had got her phone password written in her diary and the accused took her password from her diary and opened her phone and took away her nude pictures and videos from the "chip" of her mobile. P.W. 1 further stated that she came to know about it from the accused as the accused used to tell her to go for outing with him but she refused then he told P.W. 1 that the accused had got her personal nude pictures and videos with him and he took it when he used to look at her mobile phone and also took the password of her mobile from her diary without her permission. P.W. 1 came to know later from her "khurtuto" brother that while searching surname "victim's surname" in Google then it displayed her nude pictures and videos and the website name is pornhub and the last three digits of the said URL is 224 and it is also written there in the video victim's name daughter of victim's father name (another name of victim's father) and then P.W. 1 searched it on Google with her surname and found it on pornhub and took screen shots and came to the P.S. with her father on 21/7/17. P.W. 1 identified the written complaint (exhibit 1) and her signature into it (exhibit 1/1), signature on the formal FIR (exhibit 2). P.W. 1 further stated that she had submitted printed screen shots of the video to the P.S. and had seen her video in the website pornhub in the profile of Anibokshi. As the mental condition of P.W. 1 was not well so she had refused to give her statement before the Magistrate and had endorsed the same in writing (exhibit 3) and her signature (exhibit 3/1) and P.W. 17 also identified this document (exhibit 3/2). P.W. 1 identified the printed screen shots containing three pages which she had submitted with her written complaint (exhibits 1/4, 1/5 and 1/6) and P.W. 17 in his evidence identified these screen shots in his evidence. P.W. 1 further stated that on 07/8/17 she came to CID Cyber Cell, Bhawani Bhawan with her father and her mobile phone was seized along with two sim cards and P.W. 1 identified the seizure list (exhibit 4) and her mobile phone (mat exhibit 1) and her signature into the envelope (mat exhibit 1/1). P.W. 1 also identified her signature in the certificate u/s 65 B of the Indian Evidence Act

regarding the printed screen shots which P.W. 1 submitted with the written complaint. Ld. Special PP at the time of argument referred a citation *Domodar Prasad V. State of Maharashtra AIR 1971 SC 622* where it was held that *"The FIR is not substantive evidence. It can be used for one of the limited purposes of corroborating or contradicting that can be used to show the implication of the accused"* and stated that here the content in the complaint has fully corroborated by the deposition of the P.W. 1. Ld. Special PP at the time of argument relied another citation reported in *1993 Cr LJ 187 (SC)* where it was held that *"Evidence of a sole eyewitness who received injury must be wholly reliable"*.

In the cross examination of P.W. 1 the said witness clearly stated that she had captured her very personal photos as because she was in love with Animesh and believed him so the accused demanded to give those type of photos and if she did not give him photos then the used to show anger to her. In the cross examination of P.W. 1 this court finds that P.W. 1 stated that she did not knew whether the accused wanted to marry her or not now and this court further finds that in the cross examination of P.W. 1 a question had been put as *"If the accused wants to marry you whether your father will agree or not?"* and P.W. 1 replied that *"I am not agree to the marriage anymore why my father will agree"* which means that whatever it may be the accused knows the defacto complainant very well otherwise the question of marriage would not arise. During the examination of the accused person u/s 313 Cr. PC when this court asked that *"The P.W. 1, victim's name has testified before the court and in cross examination she stated that at first you were her friend but later on a relationship developed in between both of you. The close relationship was that at first you were friends and then became very close. She loved you and trusted you and you told her to marry her. What do you have to say in this regard ?"* and the accused had given the answer *"I have got nothing to say in this regard"*. The accused stated nothing and just denied everything about P.W. 1 and if that is so then why the question regarding marriage was asked to P.W. 1 in her cross examination. In the case of *Phula Singh v. State of Himachal Pradesh; AIR 2014, SC 1256* - the court held that *"accused has the right to maintain silence during examination or even remain in complete denial when his statement under section 313, Cr.P.C. is*

being recorded. But in such an event adverse inference could be drawn against him". In *Munna Kumar Upadhyay @ Munna Upadhyay v. State of Andhra Pradesh; AIR 2012 SC 2470* it has been held that - *"False denial made by the accused of established facts can be use as incriminating evidence against him"*. From the entire cross examination of P.W. 1 there is nothing that the accused did not know the defacto complainant or that there was no relation with P.W. 1 and the accused and during the examination of the accused u/s 313 Cr. PC denied it and thus this court can draw adverse inference against the accused and when the question of marriage is put in the cross examination of P.W. 1 and the accused denied it or failed to explain it then false denial made by the accused of established facts can be used as incriminating evidence against him.

P.W. 2 stated that while her daughter was studying in the college then there was love affairs in between her daughter and the said Animesh Boxi and due to this love affair the said accused had stolen some nude pictures of her daughter from her mobile phone and had uploaded those nude pictures of her daughter in different porn websites and P.W. 2 went to the P.S. and as her daughter was broken so she dictated it and P.W. 2 had written the complaint and it was read over to her daughter and her daughter had also seen it and then her daughter put her signature into it and he also signed into it (exhibit 1/2). P.W. 2 further stated that on 07/8/2017 he went to CID office along with her daughter and there the mobile phone of her daughter was seized by the C.I.D. and P.W. 2 identified the seizure list and his signatures into it (exhibit 4/1). P.W. 2 identified the mobile phone of her daughter and his signature in the envelope (mat exhibit 1/2). P.W. 2 identified the screen shots which her daughter had submitted along with the written complaint (exhibit 1/4, 1/5 and 1/6). This court further finds from the cross examination of P.W. 2 when P.W. 2 stated that *"I had just purchased this phone and had given to my daughter and I do not know anything else. I came to the court to depose on behalf of my daughter"* which clearly means that P.W. 1 is using mobile phone.

P.W. 7 stated that on 07/8/17 as per requisition she consulted with her superior for taking permission and after verbal permission to assist in connection with Panskura P.S. case no. 381 of 2017 and P.W 18 informed her that the victim's name who is the complainant of

Panskura P.S. case no. 381 of 2017 and her father and then in her presence victim gave her Samsung mobile and two sim cards to Atanu Santra who then seized those and she had signed on the seizure list (exhibit 4/2). P.W. 7 also identified the mat exhibit 1 and her signature in the envelope (mat exhibit 1/3).

P.W. 18 stated that he had sent requisition after getting approval from superior to Smt. Kakali Ghosh Kundu, Inspector of police, O/C, POWC, Cell, CID, West Bengal to examine and record the statement of victim girl in connection with this case and the complainant cum victim produced her mobile phone of Samsung Duos and he had seized the phone under proper seizure list and identified his signature in the seizure list (exhibit 4/3) and the seizure list (exhibit 4/4). P.W. 18 also identified the mobile phone of P.W. 1 and his signature on the label (mat exhibit 1/ 4) and the envelope (mat exhibit 1/5). P.W. 18 also stated that P.W. 1 stated that she would submit certificate u/s 65 B of Indian Evidence Act in respect of print out of screen shots of the nude video of her which she had enclosed with the written complaint. P.W. 18 further stated that he received a certificate u/s 65 B Indian Evidence Act issued by complainant cum victim in respect of printouts of the screen shots of downloaded videos of the complainant which were enclosed with the FIR and collected from victim at Panskur P.S.

So, it appears before this court that the mobile phone of the victim was seized. There is nothing in the cross examination that the search and seizure was not proper. P.W. 1, P.W. 2, P.W. 7 and P.W. 18 all identified the seizure list and the seized article and all the witnesses corroborated with each other. Thus the seizure list exhibit 4/4 is proved. Now the question is why the mobile phone of the defacto complainant was seized. The Ld. Lawyer for the accused at the time of argument submitted that the mobile phone of the victim was not sent to CFSL and it is not known as to whether the mobile phone has got a password or not. Be it mention here in that this mobile phone is not the case of the prosecution. This court wants to see whether this mobile phone has got a camera or not as P.W. 1 stated in her evidence that *"I took some nude pictures and video of me in my mobile phone"*. As no other source had been stated by P.W. 1 so this court will definitely presume that through mat exhibit 1 P.W. 1 had

captured her nude pictures and videos and P.W. 1 herself had stated it in her evidence. It is clear from the cross examination of P.W. 1 who stated that in her mobile phone there is no front camera but has got only back camera which is sufficient to hold that the mobile phone of P.W. 1 has got a camera to capture image and videos.

Now this court already noticed from exhibit 7/6 the IP address is 47.15.15.236. The evidence of P.W. 16 is very vital in this case as P.W. 16 had produced certain vital documents in this case relation to the IP address 47.15.15.236.

Ld. Special PP at the time of argument submitted that as soon as a computer/laptop/mobile phone is connected to the internet then through Internet Service Provider in short ISP the device is connected to the internet and as soon as the device is connected to the internet the ISP allocates a IP address for that device and further submitted that David W. Hagy of National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, in his article named "*Investigations Involving the Internet and Computer Networks*" has observed the virtual investigation in the following ways:

1) Given an IP address and a date and time (including the time zone), most ISPs can identify the registered user assigned to the IP address at the specific time, enabling the investigator to request additional information.

2) Information that may be obtained from the ISP includes—

a) Subscriber information such as the registered owner, address, and payment method.

b) Transactional information such as connection times, dates, and IP address used.

c) Content such as e-mail messages, data files, and stored programs.

3) Some of the information used in tracing an IP address or end user may be obtained from ISPs or network administrators. This information typically includes account information, e-mail address information, IP address, and domain name. It may or may not contain information about the owner or user and Ld. Special PP also stated four steps of traceability as

Traceability can be expressed in four independent steps and they are namely:

First, one determines the IP address to be traced.

Second, one establishes which ISP (or perhaps a university) has been allocated the IP address.

Third, the ISP's technical records will indicate which user account was using the IP address at the relevant time.

Fourth and finally, the ISP's administrative records will establish the real-world" identity of the individual who was permitted to operate the account.

The following observations of the world judiciaries are worth mentioning in light of techno-legal perspective:

P.W. 16 in his evidence stated that the I.O. of this case pointed him to collect the I.P. allocation details of the I.P. 47.15.15.236 as from this I.P. the objectionable videos were uploaded to Pornhub which Pornhub authority replied and it can be seen from exhibit 7/6. P.W. 16 searched the I.P. from I.P. look up portal traceip.bharatiyamobile.com and exhibit 43 is the said search result. On perusal of exhibit 43 this court finds that the IP search is 47.15.15.236 and the ISP provider is Reliance Jio Infocomm Limited. P.W. 16 then through the official email address wrote to the authority of Reliance Jio about the allotment details of the said I.P. for 02/5/2017 and the time period 11:56 to 12:20 IST and had added five and half hours to the time on the time mentioned in exhibit 7/6 to convert the time UTC to IST. The question is why P.W. 16 had chosen the date 02/5/2017 . On perusal of exhibit 7/6 this court finds that the Pornhub authority had also mentioned the time and date when the videos were uploaded in their website and this court clearly finds the date and time as 05/02/2017 06:40 U and here 05/02/2017 format of time is actually 2nd May, 2017. Exhibit 44 shows the the communication in between the official email id of CID, West Bengal and Reliance Jio Infocomm Limited and in exhibit 44 it is clearly written in connection with Panskura PS case no. 381/17 the information was sought for and I.P.D.R. had been received from Reliance Jio Infocomm Limited which is marked as exhibit 45 by this court and on perusal of exhibit 45 this court finds that the destination IP address is 31.192.120.36. P.W. 16 also stated that he had opened

the IPDR and found during that time period from a mobile number or MSISD being number 8240136385 and device ID number 358960061307271 was used and exhibit 45 shows the same thing. P.W. 16 converted the domain Pornhub to IP address which was 31.192.120.36 using domaintoipconverter.com and this IP address matched with the destination IP address of exhibit 45 i.e. 31.192.120.36. P.W. 16 then searched the authorised portal in the CID monitoring Cell with the help of monitoring cell, CID, to get the subscriber details of the mobile number and found that the mobile number is registered in the name of Animesh Boxi, son of Purnendu Boxi, and the number is Reliance Jio and an alternative mobile number was also given and exhibit 47 is the said document and on perusal of the said document this court finds that the subscriber details of the mobile number 8240136385 is Animesh Boxi, father's name Purnendu Boxi and alternative number is also given as +919733185096. The exhibits 43 to 47 are produced before this court as per the prayer of the prosecution u/s 91 Cr. PC. In *Om Prakash v. CBI, Delhi (2000)5 SCC 679* it was held that "*the powers conferred are enabling in nature aimed at the court or any officer in charge of a police station concerned to enforce and ensure production of any document or necessary or desirable for the purpose of any investigation, inquiry, trial etc*". In another judgment *State v. Debendas (2005)1 SCC 568 : AIR 2005 SC 359* it was held that "*thus the first and foremost requirement of the section is about the document being necessary or desirable*". So, for the purpose of trial this court allowed the petition u/s 91 Cr. PC filed from the side of the prosecution so that the case can be properly adjudicated. In *State vs Navjot Sandhu AIR 2005 SC 3820* it was held that "*the call records relating to cellular phones are not only admissible but it is also reliable*". So, relying this judgment of our Apex Court this the informations as provided by Reliance Jio Infocomm (exhibit 45) is not only admissible but also reliable.

In this case exhibits 43 to 48 are identified and proved by P.W. 16 the traceability path is well established, i.e. from the IP address to the IMEI to the connection details and lastly to the user details which is in the name of the accused person, which inconclusively and beyond all reasonable doubt proves the fact that the sexually explicit materials being video of the private part of the victim girl being P.W. 1

was uploaded by the accused person without the permission from P.W. 1.

So, the clear picture comes before this court now. That with the IP address 47.15.15.236 the nude videos of the P.W. 1 was uploaded to the website www.pornhub.com including the alleged URL which is mentioned by P.W. 1 in his written complaint and this IP was allocated to the mobile number 8240136385 when the video was uploaded to the server of pornhub and this mobile number is registered in the name of the accused of this case Animesh Boxi. Moreover this court finds that the alternate number which is +919733185096 and +91 is the country code of India and so the ten digits of mobile number is 9733185096 and this is the same mobile number which the accused Animesh Boxi had mentioned in his admission form and with this mobile number Animesh Boxi had opened the bank account. This court further finds from exhibit 1 the defacto complainant had mentioned the mobile numbers of the accused 9733185096 and 8240136385 through Animesh Boxi used to talk with her.

In this context Ld. Special PP submitted that Paul L. Kirk expressed the principle Locard's Exchange Principle as follows:

"Wherever he steps, whatever he touches, whatever he leaves, even unconsciously, will serve as a silent witness against him. Not only his fingerprints or his footprints, but his hair, the fibers from his clothes, the glass he breaks, the tool mark he leaves, the paint he scratches, the blood or semen he deposits or collects. All of these and more, bear mute witness against him. This is evidence that does not forget. It is not confused by the excitement of the moment. It is not absent because human witnesses are. It is factual evidence. Physical evidence cannot be wrong, it cannot perjure itself, it cannot be wholly absent. Only human failure to find it, study and understand it, can diminish its value".

In forensic science, Locard's exchange principle holds that the perpetrator of a crime will bring something into the crime scene and leave with something from it, and that both can be used as forensic evidence. Dr. Edmond Locard, a pioneer in forensic science had formulated the basic principle of forensic science as: "Every contact leaves a trace".

Now exhibit 45 shows that the device ID number is 358960061307271 and from exhibit 36/1 which is the seizure list dt. 21/7/17 one Moto mobile having model no. XT1635-02 (mat exhibit 8) was seized and there the IMEI number is mentioned 358960061307271 and the device id in short IMEI number also matches with the same IMEI number which exhibit 45 shows. So, the device ID of the mobile phone matches. The mobile phone had been seized by P.W. 17 and the P.W. 14 identified his signature in the seizure list which P.W. 17 had proved the seizure list. There is nothing in the cross examination or other evidences that there was so search and seizure. The HP laptop (mat exhibit 7) of the accused and the two sim cards one of Vodafone (mat exhibit 8/5) and Jio (mat exhibit 8/6) along with the SD card of 16 GB (mat exhibit 8/7) were also seized and P.W. 17 had proved it that he had seized it. The IMEI number of a mobile phone is something that cannot be manufactured and this number is given only at the time of manufacturing of the device by the manufacturer and no plea had been taken from the defense side that the IMEI no. had been manufactured or tampered and as this device ID matches with the same device ID which Reliance Jio Infocomm had provided and as well as the mobile number 8240136385 and thus court can safely presume that through this mat exhibit 8 the nude pictures and videos of P.W. 1 were uploaded in the website www.pornhub.com and this device was seized from the possession of this accused Animesh Boxi and thus this accused had uploaded the videos. Moreover this court finds from exhibit 7/6 that email id animeshbokshi18@gmail.com is registered with that pornhub account through which the nude videos of P.W. 1 had been uploaded and this court already holds that it is Animesh Boxi who created the email id animeshbokshi18@gmail.com . In this context Ld. Special PP referred a citation *Amitsingh Bhikamsingh Thakur vs. State of Maharashtra* 2007 (1)SCC (Cri)582 where it was held that "*Discovery of fact inconsequence of information received from accused - requirements of S. 27 stated - "Facts discovered" also includes mental fact such as the place from which the object is produced and knowledge of accused to this - only that portion of the information which relates to the fact discovered is admissible*" and argued that here the uploaded video, uploaded through his pornhub account

which has been registered from his gmail account are relevant facts which had been discovered.

In *Gajraj Vs. State (2011)10 SCC 676* it was held that “Every mobile handset has an exclusive IMEI number. No two mobile handsets have the same IMEI number. And Every time a mobile handset is used for making a call beside recording the number of the caller as well as the person called, the IMEI numbers of the handsets used are also recorded by the service provider”. In this present case the IMEI number of mat exhibit 8 in the CFSL report (exhibit 41) and the IMEI number which Reliance Jio Infocomm had provided (exhibit 45) matches with each other and this mat exhibit 8 was seized from the possession of the accused Animesh Boxi. The defence story was repeatedly reflected on the point of conventional seizure procedures of tag, label etc. which if at all presents in this case is of no consequence or significance as mobile always carry the best and the exclusive identity i.e. IMEI number which is not so fragile like tag, label etc. and which cannot be deleted or destroyed by any means. The IMEI number, CDR, SDR, CAF is an ultimate proof of the physical device and his virtual identity beyond the control of investigating agency or any individual to destroy the same that is why the Hon’ble Court opines this way in *Gajraj v. State (NCT of Delhi) Criminal Appeal No. 2272* as “Use and possession of mobile handset of murdered person, stolen at time of incident, on date of murder itself, by accused, as mobile phone SIM number registered in name of accused- Establishment of - Exclusiveness of IMEI (International Mobile Equipment Identity) number of every mobile handset - Utilised in proving guilt of accused - Existence of even serious discrepancy in oral evidence, held to yield to conclusive scientific evidence” and in this context Ld. Special PP at the time of argument relied a citation reported in *Ajmal Amir Kasab vs State of Maharashtra (2012)9 SCC 1 : (2012)3 SCC (Cri) 481* where it was held that “The relevance of electronic evidence is also evident”.

Now this court holds that this accused Animesh Boxi had uploaded the nude pictures and videos of victim. It has been stated by P.W. 1 in each and every videos of her nude video posted online her name is written along with her father’s name. There was grudge on the part of the accused. So, at the time of upload this accused had

given the title caption and this implies how much of anger and hate the accused has got as because this court already hold that this accused had uploaded the videos through his mobile phone. Thus the concept of revenge porn comes into play.

Definition of revenge porn:

Sexually explicit images of a person posted online without that person's consent especially as a form of revenge or harassment. Revenge porn or revenge pornography is the sexually explicit portrayal of one or more people that is distributed without their consent via any medium. The sexually explicit images or video may be made by a partner of an intimate relationship with the knowledge and consent of the subject, or it may be made without his or her knowledge. The possession of the material may be used by the perpetrators to blackmail the subjects into performing other sex acts, to coerce them into continuing the relationship, or to punish them for ending the relationship.

In this context Ld. Special PP referred a citation *Mohd. Ajmal Amir vs State of Maharashtra (2012)3 SCC (Cri) 481* where it was held that "*Reliable ocular evidence is the best evidence. And when the confession of an accused gets support from the statements of eyewitnesses, it is not necessary to refer to other evidences*" and argued that here everyone including the victim girl who had seen the obscene video in the pornhub and other online computer resources containing sexually explicit materials are actually eye witnesses.

In this case it cannot be denied that victim is unknown to the accused Animesh Boxi otherwise the question of marriage was not put to the cross examination of P.W. 1. Moreover, P.W. 1 refused to go for outing with the accused and for this the accused had uploaded those without her consent. P.W. 1 had been subject to grilling cross examination but there is nothing in her cross examination. This court already hold that the accused knew P.W. 1 very well and according to P.W. 1 there was love affairs with the accused and P.W. 1 and even the question regarding marriage was put at the time of cross examination of P.W. 1 so this court can come into conclusion that there was close relationship in between P.W. 1 and the accused Animesh Boxi and then it is high chance that this accused can easily get the mobile phone of P.W. 1. The revenge has been established by proving that

the accused pressurized, forced the P.W. 1 by stating her to go for outing and when she refused his proposal he was in a revenge mood and threatened her and committed the heinous crime of uploading the hacked or unauthorizedly obtained the nude videos on internet by labeling her name and her father's name. The accused created pressure or he would publish private photos and the motive of the accused is very much clear. How much the accused was angry as while uploading the nude videos the accused had given the father's name of the victim P.W. 1 along with the name of the victim.

Ld. Special PP at the time of argument relied a citation reported in *State vs Jeet Singh (1999)4 SCC 370*; see also *Nathuni vs State (1998)9 SCC 238* and *State vs Babu Ram (2000)4 SCC 515* where it was held that "*Every criminal act is done with a motive but its corollary is not that no criminal offence would have been committed if the prosecution has failed to prove the precise motive of the accused*".

In this context Ld. Special PP at the time of argument relied a citation reported in *AIR 1972 SC 54 : 1972 CrLJ 7* where it was held that "*Motive and opportunity to commit the crime present. Circumstantial evidence excludes the reasonable possibility of any one else being the culprit. The accused become fixed*" and argued that here in this case accused wanted to fulfill his demand and when P.W. 1 refused, he uploaded the sexually explicit video containing her private parts without her permission and knowledge and again, he collected her nude videos by unauthorizedly accessing her mobile collecting her password from her diary which was accessible to him in their good times. Hence motive and opportunity to commit the crime was available and present. Again the available circumstantial evidence excludes the reasonable possibility of any one else being the culprit other than the present accused person, the allocated IP address, the IMEI no., the Gmail and Pornhub account in his name, the Vodafone and Jio connections number used and their availability in the seized mobile phone from the accused person only proved his involvement in the commission of the heinous crime which has devastated P.W. 1's life.

In this present case many certificates u/s 65 B of the Indian Evidence Act were issued by the witnesses who had prepared it and

also signed into it and many DVD/CD were seized. In *K. Ramajayam vs Inspector of Police 2016 Cr LJ 1542 (Mad)* it was held that “*Madras High Court was called upon to decide whether articles like Memory Card, Hard Disc, CD, Pen-Drive etc. Containing relevant data in electronic form are documents within the meaning of Sec. 3 of the Evidence Act*”. Ld. Special PP relied upon the judgment *Shamsher Singh Verma Vs State of Haryana 2005(12) Scale 597: 2015 AIR SCW 6434* where it was held that “*CD is a ‘document’ within meaning of Sec. 3 of the Indian Evidence Act, 1872*”. So, the CD or the DVD as the case may be which were produced at the time of trial are within the meaning of section 3 of the Indian Evidence Act. In another judgment *Shamsher Singh vs State of Haryana 2016 Cr LJ 364 (SC)* it was held that “*In view of the definition of ‘document’ in sec. 3 of the Evidence Act, the compact disc is also a document. It is not necessary for the court to obtain admission or denial on a Cr PC personally from the accused or complainant or the witness. The endorsement of admission or denial made by the counsel for defence, on the document filed by the prosecution or on the application/report with which same is filed, is sufficient compliance of section 294 Cr PC.*”.

In this case some certificates u/s 65 B of the Indian Evidence Act were no collected during investigation stage. It was held in *Kundan Singh vs State (MANU/DE/3674/2015)* that “*The certification is not obtained at the time of collection of evidence, yet, at the time of trial, evidence aliunde can be given through the person who was in charge of the server, in terms of Sec. 65B of the Act, as held by a Division Bench of the Delhi High Court*”. Thus even though some of the certificates u/s 65 B of the Indian Evidence Act which were not collected at the time of investigation are proper in the eyes of law.

In *Anvar P.V. vs. P.K. Basheer and Others (2014) 10 SCC 473* it was held that “*Any documentary evidence by way of an electronic record under the Evidence Act, in view of Sections 59 and 65A, can be proved only in accordance with the procedure prescribed under Section 65B*”. In this present case proper certificates had been issued by the witnesses who had either taken screen shots or taking photographs and video and burnt in CD or DVD or even downloaded the contents of the email and later on taking print outs. Thus all the certificates u/s 65 B of the Indian Evidence which are produced in

connection with this case are all relied upon by this court as they are proper and identified by the witnesses who prepared it and there are corroboration in between the witnesses thus the certificates as issued by P.W. 1 and P.W. 12 at the later stage is not at all fatal to the prosecution case. The Ld. Lawyer for the accused at the time of argument referred citation *Kundan Singh vs State* and (2015) 1 Cal LT 318 and on perusal of the said citation this court finds that it is not applicable in this case.

As per the mandate of section 47 of Indian Evidence Act which states that, Opinion as to handwriting, when relevant — “When the Court has to form an opinion as to the person by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the person by whom it is supposed to be written or signed that it was or was not written or signed by that person, is a relevant fact.”

In this present case P.W. 11 in his examination in chief that, “*in my presence from our cell S.I. Jyotirmoy Biswas also signed into it as a witness*” and further stated that, “*I know the handwriting and signature of Jyotirmoy Biswas*”. P.W. 18 stated in his examination in chief that, “*This is the signature of Jyotirmoy Biswas who works in our Cell and I know his handwriting and signature*”. The P.W. 9 stated in his examination in chief that, “*I know the handwriting and signature of Jyotirmoy Biswas who works in the Cyber Cell, C.I.D.*”

P.W. 6 stated in his examination in chief that, “*This is the signature of Sukanta Roy in the D.V.D. and he had signed in my presence and I know the signature and handwriting of Sukanta Roy and this is the said signature of Sukanta Roy*”. Further, though the name of Uttam Dolui being the seizure witness and his signature was proved by the P.W. 10 who has stated in his examination in chief that “*This is the said paper which is the seizure list containing two pages which was translated to me in Bengali and after understanding its content my friend and I put our signatures thereon and this is my signature along with date in the last page and this is the signature and date of my friend Uttam Dolui and I know the handwriting of my friend Uttam Dolui*”.

Ld. Special PP at the time of argument relied a citation reported in (2012) 3 Supreme Court Cases (Cri) 18 where it was held that

“Police evidence could not be thrown out because of non-availability of independent evidence. Examination of all witnesses, held, not always necessary if others have given satisfactory account of incident” and this citation is applicable in this case and Ld. Special PP also referred a judgment *AIR 1957 SC 857 : 1957 CrLJ 1346* where it was held that *“Proof of genuineness of document. Proof of contents of document modes provided in secs. 45 and 47 may be used”* and argued that in this case various evidences are proved by expert report and the signatures of Jyotirmoy Biswas and Sukanta Roy was proved by the person acquainted with their signatures.

As regards to the allocated IP to Jio connection number and its details matching with the details of the accused person was elaborately proved by the P.W. 16. Another very important point is that another mobile number being 9733185096 of Vodafone was in the name of Barnali Baksi being the mother of the accused person and the most important evidence coming from the P.W. 12 proves the fact that the accused opened his bank account using the same mobile number and the most shocking incident is that in statement u/s 313 Cr.P.C. the accused completely disown both the connections which are elaborately proved to be in his name or used by him at the relevant point of time.

In this present case P.W. 11 stated in his examination -in- chief that, “The URL ends with badF224 plus other four video URL has been uploaded using email id animeshbokshi18@gmail.com under user name “Anibokshi”. The “last_login” on “07/20/2017” (mm/dd/yyyy) and the current “status” of video is “deleted” and “status_reason” is “Self Deleted”. The Ld. Lawyer for the accused at the time of argument submitted that if for sake it is considered the accused had deleted on 20/7/2017 then how it is possible for P.W. 11 to get the videos on 22/7/17. In this context this court finds that from exhibit 7/6 it appears that the contents of the video was not deleted on 20/7/17 but the account in pornhub was deleted by the accused. The device with which the videos were uploaded was found from the possession of the accused and it has been proved that through this device those videos were uploaded by the accused and this case was filed on 21/7/17 and just one day before i.e. on 20/7/17 the accused entered into his pornhub account and had deleted the account and the status

reason is self deleted which clearly means that the accused himself was trying to tamper with the evidence and hence it is the clear proof that accused had caused the disappearance of evidence and thus his intention was malafide.

During the examination of the accused u/s 313 Criminal Procedure Code the accused stated that truth will be revealed if this court sees the Inspection Memo but the Inspection Memo was not been exhibited and proved by prosecution but the defense put the question to P.W. 17 without exhibiting or proving or relying the same in primary form or in secondary form. The date in "Inspection Memo" was not proved through P.W. 17 by defense by primary or secondary evidence. P.W. 17 posted the date 19/7/2017 instead of 21/7/2017 in the Inspection Memo but other circumstantial, direct evidence proves that it was a bonafide mistake as there was search and seizure on 21/7/17. It was also proved that mat exhibit 8 was recovered from the possession of the accused and seizure list was prepared and there was nothing from the defense side that there was no seizure on 21/7/17.

Section 22 lays down that the contents of the documents can be proved by the documents itself and not by oral evidence. The contents of a document capable of being produced must be proved by the instrument and not by parole evidence. Under the provisions of the Evidence Act the contents of the documents are proved either by primary evidence or by secondary evidence. According to Section 64, the document must be proved by primary evidence, i.e., by producing the document itself. In absence of primary evidence it can be proved by secondary evidence under section 65 of the Indian Evidence Act. Section 22, accordingly, states that oral evidence as to the contents of a document will be relevant only when the secondary evidence of the document can be given under this section. In the present case the obvious errors of writing wrong date in inspection memo (written 19/7/2017 instead of 21/7/2017) is only insignificant procedural irregularity and is of no significance because with ample evidence the fact of initiation of FIR and first seizure was proved to be on 21/7/2017 and not on 19/7/2017 and in this context this court relies the judgment *K.M. Ramajayam vs Inspector of Police Chennai 2016 Cr LJ 1542 (Mad)* where it was held that "*Procedural irregularity, even if*

there is any cannot vitiate the search and seizure, unless it is shown that some prejudice has been caused to the accused”.

In many cases questions were put in the cross-examination of the witnesses as to whether it had been stated to the I.O. or not. P.W. 11 Barun Kumar Nayek and P.W. 16 Gunasindhu Sahoo were mostly related to seizure or procedures effected before I.O. which has been otherwise proved through seizure list and seizure witnesses. Hence minor discrepancies i.e. the omissions which are not material cannot get the status of fruitful contradiction and for this the Ld. Special PP referred the citations in *AIR 1979 SC 1234 : 1979 Cr L J 1027 : 1980 Supp. SCC 157, Narayan vs State, (2000)8 SCC 457* that - *“Insignificant omissions in the statement of witnesses to the police are no ground for disbelieving them”.*

Ld. Special PP at the time of argument relied a citation reported in *(2000) 1 SCC* where it was held that *“Minor discrepancy or variance in evidence and it was held that it does not make the prosecution’s case doubtful.”* and argued that even still this court is not satisfied then this court at the time of appreciation of evidence can type *#06# to find out the existing IMEI no. of the mobile seized from the accused. There is a typing error in the label regarding IMEI no. of the mobile of the accused which was seized on 21/7/17 through exhibit 36/1. The said label was prepared for sending the same to CFSL by PW. 18. This court finds that it is purely a bonafide typographical mistake and a minor discrepancies which in no way affecting the material evidences as the mentioning of IMEI no. in the seizure list dated 21/7/2017 was duly been proved by the P.W. 14 and P.W. 17 and CFSL report has given one of the IMEI no. being 358960061307271 and so just a typing error in the label is just discarded.

In this present case this court finds that question had been put by the defense in the cross examination of P.W. 18 about the delay in filing of the seizure list. In this context Ld. Special PP referred a citation *Sukhdeb vs State (2001)8 SCC 86* where it had been held that *“Non-production of the seizure list in court as a part of the record is undoubtedly a lapse of the prosecution. But in the event of there being credible evidence on record, a lapse pertaining to non-production of seizure list would not really affect the case of prosecution in any way. The question always is whether any prejudice*

has been caused by reason of such a lapse” and argued that here all the seizure lists are produced before Ld. Court and any delay if any were properly being explained by P.W. 18 in his cross-examination and this court finds that there is no such harmful.

The trend of cross examinations from the defense side is that there were mere suggestions and denials and the fact which had been established by the witnesses never tilted at any point of time. The cross examination is based merely on procedural and thus shifts from the actual case as brought by the prosecution. In *1990 Cr LJ (NOC) 125* it was held that *“Defence does not cross-examine on certain facts. Fact is thus admitted by defence”*. In AIR 1963 Assam 151 : (1963)2 CrLJ 255 it was held that *“Mere suggestion in cross-examination unsupported by the statements of the accused and defence evidence has no evidential value”*. In another judgment AIR 1959 Cal 213 it was held that *“Suggestion in cross-examination which is denied by the witnesses is no evidence”*.

Principles in respect of evidentiary value and reliability of extra judicial confessions have been summarized by the Supreme Court in *Sahadevan vs State of T.N (2012) 6 SCC 403 : (2012) 3 SCC (Cri) 146* which reads as under:

(i) The extra - judicial confessions is a weak evidence by itself. It has to be examined by the court with greater care and caution.

(ii) It should be made voluntarily and should be truthful

(iii) It should inspire confidence.

(iv) An extra judicial confession attains greater credibility and evidentiary value if it is supported by a chain of cogent circumstances and is further corroborated by other prosecution evidence.

(v) For an extra judicial confession to be the basis of conviction, it should not suffer from any material discrepancies and inherent improbabilities.

(vi) Such statement essentially has to be proved like any other fact and in accordance with law.

In *State vs Kanda Gopaludu (2005) 13 SCC 116: AIR 2005 SC 3616* it was held that *“Extra Judicial Confession, if made voluntarily, can be relied upon to convict the accused”*. In AIR 1971 SC 1871:

1971 Cr LJ 1314 it was held that "*Extra Judicial Confession-probative value- an extra judicial confession, voluntary and truthful, has a high probative force*". Witness proving extra judicial confession unbiased, not remotely inimical even, truthful. Words spoken by accused clearly, unambiguously and unmistakably reproduced. Evidence put to rigorous test on the touchstone of credibility. Corroboration not necessary. In AIR 1954 SC 462 : 1954 Cr LJ 1313, 1992 Cr LJ 3251 it was held that "*Voluntary confession. Mere bald assertion by the accused that he was threatened, tutored or that inducement was offered to him cannot be accepted as true without anything more to substantiate it*". In this present case P.W. 6 stated "*That person present there stated me and Sukanta Roy and we listened about his relationship and he told his lover to go with him to Digha but the said lady refused to go to Digha. So, in anger he took some nude pictures and video of the lady and uploaded it into the Porn website*" and P.W. 10 stated that "*In presence of all including my friend Uttam Dolui then Animesh Boxi told us that Animesh Boxi loved one lady and told his lover forcibly to go for outing in a place but I can not recollect the name of the place which Animesh Boxi stated and his lover refused to go and then Animesh Boxi uploaded nude pictures and video of his lover online*" and is relied upon by this court. During 313 Cr. PC when this court put questions regarding this the accused just stated that "*I have not stated anything to anyone. I had not shown anything to anyone. They took my signatures forcibly in few papers and I signed into it as because the bathroom was not good there and I was unable to use it and they told me if I sign into it they I will be shifted elsewhere with good bathroom*". The case record shows from the very first day when the accused was produced before court the accused was represented by his Ld. Lawyer but no such petition had been filed from the side of the accused that his signatures were taken forcibly and that he had not stated anything to anyone or had shown anything to any one. The Ld. Lawyer for the accused at the time of argument referred citation (1991) 1 Supreme Court Cases 286, (2001) 9 Supreme Court Cases 41 is not applicable in this case.

During cross examination of the prosecution witnesses questions were put as to whether the witness had stated to the I.O. or not. Now the statement u/s 161 Cr. PC is not evidence at all. Even questions had been put to the I.O. as to whether he had reduced into

writing in 161 Cr. PC statement or not. P.W. 18 in his cross examination stated that *"It is not a fact that the statements u/s 161 Cr. PC as reduced by me in writing in consonance with section 161(3) of Cr. PC"*. In *51 Cr LJ 1307 (Cal); 50 Cr LJ 669 (Nag)* it was held that *"It is not obligatory on the police officer to record any statement made to him. But if he does reduce statements to writing, he must make a separate record of the statements of each of the persons"*. The Ld. Lawyer for the accused at the time of argument stated that there is delay in recording of the statement of the witnesses u/s 161 Cr. PC. In *Ramesh vs State (2001)1 SCC 243* it was held that *"Delay in examining witnesses under section 161 Cr.P.C. ipso facto cannot be a ground to discard their testimony particularly when nothing tangible can be brought out in their cross-examination to impeach their evidence"*. Ld. Special PP relied a citation *Ram Swaroop vs State AIR 2004 SC 2943* where it was held that *"Statement recorded under sec. 161 is not evidence; and as such undue importance cannot be given to such statements"*.

Now the question is whether there is any delay in lodging the FIR. This court is of the view regarding this that there is no delay at all as when P.W. 1 submitted written complaint and the date when she deposed before the court the video was still active and it was available in the virtual world and is also accessible and can be viewed from any part of the world. Hence the question of delay in filling the present complaint applying the straight old jacket formula is of no relevance here as well as even the same is active today. P.W. 1 clearly stated in her evidence that her "khurtuto" brother told her that while searching her surname "victim's surname" in Google then it displayed her nude pictures and videos and the website name is pornhub and the link was big but the last three digits of the said link is 224 and then P.W. 1 searched on Google with her surname victim's surname and then she saw it in pornhub and P.W. 1 then took screen shots of it and then with her father came to the police station on 21/7/17 and as her mental condition was not well so she dictated and her father wrote the written complaint and after that P.W. 1 read it and after understanding its content put her signatures thereon. Moreover on the date of deposition of P.W. 1 this court finds from the deposition that Ld. Special Public Prosecutor made arrangement for internet access in the court room through mobile phone wifi hot spot and the

Ld. Lawyer for the accused raised no objection and the website pornhub was opened which contained the link of the video and the witness stated that was her video with her name and her father's name. So, this court finds that there is no delay at all as because P.W. 1 immediately lodged complaint to the P.S. as soon as she saw her nude pictures and videos and the website name is pornhub. Thus the citations as referred by the Ld. Lawter for the accused in (2001) 3 Supreme Court Cases 147, 1971 (3) Supreme Court Cases 192, (2003) 10 Supreme Court Cases 670, (1976) 4 Supreme Court Cases 355, (1994) 5 Supreme Court Cases 188, (2007) 12 Supreme Court Cases 641, (2013) 6 Supreme Court Cases 428, (1978) 4 Supreme Court Cases 371, (2004) 10 Supreme Court Cases 583 and (2005) 3 Supreme Court Cases 689 are not applicable in this case.

During examination of the accused u/s 313 Cr. PC when the question was put as regards the mobile number 8240136385 is in the name of Animesh Boxi son of Purnendu Boxi and the accused stated that *"It is not true that the mobile number 8240136385 is in the name of Animesh Boxi son of Purnendu Boxi"*. In Ganesh Vs state (2002) 1 SCC 731 it was held that *"It is not necessary for the accused to speak and explain but when the case rests on circumstantial evidence failure of the accused to explain the same would enable an inference being drawn against him, the fact being in the exclusive knowledge of the accused"*. In this present case the accused failed to explain the circumstances regarding possession of various computer resources or electronic record namely the allocated IP address, the IMEI no. the gmail animeshbokshi18@gmail.com and pornhub account in his name, the Vodafone and Jio connections number used and their availability in the seized mobile phone from the accused person. In *State of Rajasthan vs. Kashiram* 2007(1) SCC(Cri)688 it was held that *"Failure of accused to explain incriminating circumstances against him - effect- accused not explaining where he was after parting company with the deceased with whom he was last seen together - held, provides an additional circumstance in the chain of circumstantial evidence against him"* and here in statement u/s 313 Cr. PC the accused person has not given any explanation of involvement of IMEI no of his mobile involved in commission of crime, explanation as regards to the allocated IP address, the Gmail and Pornhub account in his name, the Vodafone and Jio connections

number used and their availability in the seized mobile phone from the accused person are all to be explained from his special knowledge. The Ld. Special PP referred a citation *AIR 1979 SC 400 : 1979 CrLJ 329* where it has been held that *“Conduct of an accused during the course of an investigation is admissible”* and argued that here in this case in 313 Cr. P.C. statement the accused person that *“I have not stated anything to anyone. I had not shown anything to anyone. They took my signatures forcibly in few papers and I signed into it as because the bathroom was not good there and I was unable to use it and they told me if I sign into it they I will be shifted elsewhere with good bathroom”*. Now forcibly means the accused indirectly admitting his signatures. The accused stated that he had not uploaded anything means it is within the special knowledge of the accused. But ironically and surprisingly enough the accused person who was as per law all the time represented by Ld. Advocate, never raised or retracted from the fact that he had stated before the CID officer being P.W. 18, which is a valuable evidence as per section 27 and 8 of Evidence Act, during the time he was produced from the PC. In *Ravirala Laxmaiah vs. State of Andhrapradesh 2013(3) SCC (Cri)911 (2013)9 SCC 283* it was observed that *“A Circumstantial evidence - failure to explain incriminating circumstances - is an additional link to chain of circumstances - false explanation or no explanation offered by accused to incriminating circumstances put to him - when accused is last seen with deceased in his house, accused is duty bound to explain circumstances under which deceased died - failure to explain or false explanation would create a strong suspicion about guilt of accused”*. This court further finds when the question regarding seizure dt. 21/7/17 was asked the accused simply stated that he used to stay at hostel. But again no explanation had been furnished by the accused.

The prosecution has placed exhibits 7/6, 8/12 and 8/13 regarding Google and Pornhub. P.W. 1 in her cross examination stated that the website www.pornhub.com is open in India. At the time of argument the Ld. Lawyer for the accused submitted that there is nothing called Google and Pornhub. It clearly means that it is within the special knowledge of the accused u/s 106 Indian Evidence Act but failed to establish it. P.W. 3 in his cross examination stated that *“It is not a fact that there is no website www.pornhub.com in India”*. There

is admission from the side of the accused when P.W. 16 in his cross examination stated that *“May be people keep Whatsapp, Gmail, Chrome and other important apps in their smart phones. I know how to access these apps. These apps can be accessed from anywhere provided that there is internet connectivity”*. So, even though the accused denied the existence of Google but the cross examination of P.W. 16 shows otherwise.

Now, as per Section 3 of the Indian Evidence Act under the heading “Evidence” — “ Evidence” means and includes —

(1) all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry, such statements are called oral evidence;

(2) all documents including electronic records produced for the inspection of the Court, such documents are called documentary evidence.

and again as per the definitions of “Proved” -

“Proved” — A fact is said to be proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.

In this present case, the technical term “URL” stands for Uniform Resource Locator means which locates a particular computer resources. P.W. 1 showed the computer resources specified by the URL mentioned by her and she herself opened the same and placed before this court for inspection. In today’s virtual world almost everything is defined by the URL which mentions a particular computer resource or resources lying in a particular server. Hence the very URL located electronic record in a live mode is also an evidence and through other evidences its existence is believed by this court and the fact of uploaded nude videos is hereby proved.

At the time of argument Ld. Lawyer for the accused submitted that many CD and DVD are marked as exhibits but the contents of those CD and DVD are unknown to all and thus the contents are not at all proved and referred a citation (2013) 1 KLJ 256. No questions

had been put from the side of the defense to the contents of the CD and DVD during cross examination.

Now, as the defence has raised the point that it is not clear what lies in those CD and DVD first time in the stage of argument and even they got ample opportunity the defence had never suggested any specific question to that effect as regards to what lies within those CD and DVD. On careful perusal of exhibit 39 this court finds that it has been clearly stated in the CFSL report regarding the contents of the video which contained in the CDs and DVDs that "*a girl who removes her cloth and do some self sexual stimulating activity of herself in front of a camera*" and thus from this the nature of the video is very much clear and moreover after the CFSL report has been submitted then the CD and DVD in sealed condition was returned and the sealed was opened before this court at the time of evidences. This CSFL report has not been challenged from the side of the accused at the time of when this document has been marked as exhibit before any higher forum. From this CFSL report the contents of the CD and DVD is very much clear.

Ld. Lawyer for the accused at the time of argument submitted that the sections 354A, 354C and 354 D are with in the chapter of offences affecting the human body and here there is no injury at all and hence the charge under these sections are baseless.

Section 44 in The Indian Penal Code defines "injury" as the word "injury" denotes any harm whatever illegally caused to any person, in body, mind, reputation or property. So definitely it affected the and reputation of the victim in this case. P.W. 1 is the victim of this case and thus by uploading the nude pictures and video of P.W. 1 in the virtual world it definitely caused injury in her mind and reputation.

The facts and evidence of the present case are perfect blend of technical and conventional evidence. Going through the factual aspects, legal aspects, mixed aspects of facts and law and from the techno-legal perspective, on perusal of the evidence the prosecution is confident that it has proved the case beyond reasonable doubt taking all modern techno-legal edifice and all the penal sections under which the charge has been framed have been proved in toto with all its ingredients under Indian Penal Code as well as Information Technology Act (As Amended), 2008.

Ld. Special PP at the time of argument relied a citation reported in AIR 1973 SC 2622 : 1973 Cr LJ 1783 ; 1992 Cr LJ 238 where it was held that *"Damages of exaggerated devotion to the rule of benefit of doubt at the expense of social defence. The doctrine of reasonable doubt not to be stretched morbidly to embrace every hunch, hesitancy and degree of doubt"* and (1978) 4 Supreme Court Cases 161 where it was held that *"Proof beyond reasonable doubt is the guideline, not a fetish and guilty men cannot get away with it because truth suffers from some infirmity when projected through some human resources"*.

Section 354 A of the Indian Penal Code states -

Sexual harassment and punishment for sexual harassment:

1. A man committing any of the following acts—

i. physical contact and advances involving unwelcome and explicit sexual overtures; or

ii. a demand or request for sexual favours; or

iii. showing pornography against the will of a woman; or

iv. making sexually coloured remarks, shall be guilty of the offence of sexual harassment.

2. Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

3. Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

In this case this court finds that the accused Animesh Boxi had demanded some personal photos of victim but she did not agree and then the accused used to tell her sentimental words and used to show her annoyance and as she used to love him and believed him and so she gave him personal moments pictures and after that the accused used to tell her to go for outing with him but she did not agree to this and then the accused told her that he would publish her personal private photos in the social media and then she took some nude

pictures and video of her in her mobile phone as the accused told her to do so and wanted to see it and demanded it from her and hence this court is of the view that the prosecution has proved the offence u/s 354 A of IPC where the accused had demanded for sexual favours beyond the shadow of all reasonable doubts.

Section 354 C of the Indian Penal Code states -

Voyeurism: Any man who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

Ld. Special PP at the time of argument relied a citation reported in *AIR 1952 SC 54 : 1952 Cr LJ 547* where it was held that "*A girl or women is extremely reluctant to admit an incident which reflects on her chastity. There is a built-in assurance that the charge is genuine rather than fabricated.*"

In this case this court finds that the accused Animesh Boxi had demanded personal nude photos and videos of the victim and CFSL report and other evidences shows that from the mobile of the accused those nude videos were uploaded to pornhub website and definitely the accused had watched those nude videos and hence this court is of the view that the prosecution has proved the offence u/s 354 C of IPC where the videos are of private act of a lady reasonably secured from others from viewing without her permission beyond the shadow of all reasonable doubts.

Section 354 D of the Indian Penal Code states -

Stalking: (1) Any man who —

1. follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or

2. monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking.

Provided that such conduct shall not amount to stalking if the man who pursued it proves that —

1. it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or

2. it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or

3. in the particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

This court is of the view that the prosecution has proved the offence u/s 354 D of IPC where the victim P.W. 1 was stalked thoroughly on the online and this happened as the accused had uploaded it in the virtual world.

Section 509 of the Indian Penal Code states -

Word, gesture or act intended to insult the modesty of a woman - Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with fine.

Ld. Special PP at the time of argument referred a judgment *1996 AIR 309*, and submitted that modesty has not been defined in Indian Penal Code but had been beautifully described in *Rupan Deol Bajaj & Anr vs Kanwar Pal Singh & Anr.*

In *State of Punjab vs Major Singh [AIR 1967 SC 63: 1967 CrLJ 1]* it has been held that *"The supreme Court, in interpreting the words used in sec. 354, observed : The essence of a woman's modesty is her sex. The modesty of an adult female is writ large on her body. Young or old, intelligent or imbecile, awake or sleeping the woman possesses a modesty capable of being outraged"*.

In this present case the accused insulted the modesty of P.W. 1 by uploading her nude videos in the virtual world thus exhibited it and when P.W. 1 came to know about it she even had seen her videos in the virtual world and identified it and hence this court is of the view that the prosecution has proved the offence u/s 509 of IPC beyond the shadow of all reasonable doubts.

Section 66 E of the Information Technology Act states -

Punishment for violation of privacy - Whoever, intentionally or knowingly captures, publishes or transmits the image of a private area of any person without his or her consent, under circumstances violating the privacy of that person, shall be punished with imprisonment which may extend to three years or with fine not exceeding two lakh rupees, or with both.

Explanation - For the purposes of this section-

(a) "transmit" means to electronically send a visual image with the intent that it be viewed by a person or persons;

(b) "capture", with respect to an image, means to videotape, photograph, film or record by any means;

(c) "private area" means the naked or undergarment clad genitals, pubic area, buttocks or female breast;

(d) "publishes" means reproduction in the printed or electronic form and making it available for public; e) "under circumstances violating privacy" means circumstances in which a person can have a reasonable expectation that;-

(i) he or she could disrobe in privacy, without being concerned that an image of his private area was being captured; or

(ii) any part of his or her private area would not be visible to the public, regardless of whether that person is in a public or private place.

In this present case the victim P.W. 1 identified her nude videos and submitted screen shots of the same along with written complaint and it is established that those videos belong to the victim P.W. 1 as per the CFSL report and moreover the victim herself identified those videos as that of her and hence this court is of the view that the prosecution has proved the offence u/s 66 E Information Technology Act beyond the shadow of all reasonable doubts as because her uploaded video contained the pictures of her private part which has been transmitted and published by the accused on the virtual world.

Section 66 C of the Information Technology Act states -

Whoever, fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other person, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to rupees one lakh.

In this present case P.W. 1 stated that she had not given her nude pictures and video to the accused and the accused took away secretly. In the cross examination of P.W. 1 there is an admission from the side of the accused regarding this when P.W. 1 stated that "It is a fact that the accused did not take my pictures or videos which are available in the virtual world. The witness voluntarily stated that the accused took her pictures secretly." Evidence as a whole will go and hence this court is of the view that the prosecution has proved the offence u/s 66 C Information Technology Act beyond the shadow of all reasonable doubts.

Section 67 of the Information Technology Act states -

Punishment for publishing or transmitting obscene material in electronic form - Whoever publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may extend to five lakh rupees and in the event of second or subsequent conviction with imprisonment of

either description for a term which may extend to five years and also with fine which may extend to ten lakh rupees.

In this present case this court finds that this accused had transmitted and published the obscene materials (being the nude video of the victim) in the internet from his mobile phone and hence this court is of the view that the prosecution has proved the offence u/s 67 Information Technology Act beyond the shadow of all reasonable doubts.

Section 67 A of the Information Technology Act states -

Punishment for publishing or transmitting of material of material containing sexually explicit act etc. in electronic form - Whoever publishes or transmits or causes to be published or transmitted in the electronic form any material which contains sexually explicit act or conduct shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees.

In this present case the videos that were uploaded by the accused contained sexually explicit acts of P.W. 1 and CFSL reports also stated about the nature of the video and those videos belong to the victim P.W. 1 and from the mobile phone of the accused those videos had been uploaded by the accused had been established and hence this court is of the view that the prosecution has proved the offence u/s 67 A Information Technology Act beyond the shadow of all reasonable doubts. Thus the citation as referred by the Ld. Lawyer for the accused at the time of argument in *(2017) 2 Supreme Court Cases 18* is not applicable in this case.

So, considering the evidences, the exhibits and material exhibits from the side of the prosecution, considering the arguments from both sides and considering the facts and circumstances of the case, the cogent, clear, consistent and reliable evidences from the side of the prosecution and the statement of the accused u/s 313 Cr. PC which appears to be motivated and purposive this court holds that the prosecution has proved the offences u/s 354A/354C/354D/509 of

IPC and sections 66E/66C/67/67A Information Technology Act 2000 (Amendment 2008) against the accused Animesh Boxi @ Ani Boxi @ Ani Bokshi beyond the shadow of all reasonable doubts.

Hence it is

ORDERED

That the accused namely Animesh Boxi @ Ani Boxi @ Ani Bokshi is found guilty of the offence u/s 354A/354C/354D/509 of Indian Penal Code and under sections 66E/66C/67/67A Information Technology Act 2000 (Amendment 2008) and thereby convicted under the provisions of section 248 (2) of Cr. PC.

Later:

The convict is taken into custody. Before pronouncing the sentence the convict is required to be heard on the quantum of sentence.

The convict submitted before this court that he is innocent and he has been made criminal in this case and he is also a student and to give a chance to complete his studies.

It is submitted by the Ld. Defense Counsel that the convict is the only son of his family and the age of the convict is to be considered while pronouncing the sentence by this court.

The Ld. Special PP submitted to pass such order not only to consider the convict but also to consider the condition as faced by the victim of this case.

In *Alister Anthony Pereira Vs. State of Maharashtra (AIR 2012 SC 3802)* the Hon'ble Apex Court held that "*Sentencing policy is an important task in the matters of crime. One of the prime objectives of the criminal law is imposition of appropriate, adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no strait jacket formula for sentencing and accused on proof of crime. The courts have evolved certain principles: twin objectives of the sentencing policy is deterrence and correction. What sentence would meet the ends of justice depends on the facts and circumstances of*

each case and the court must keep in mind the gravity of the crime, motive for the crime, nature of the offence and all other attendant circumstances. The principle of proportionality in sentencing a crime doer is well entrenched in criminal jurisprudence. As a matter of law, proportion between crime and punishment bears most relevant influence in determination of sentencing the crime doer. The court has to take into consideration all aspects including social interest and consciousness of the society for award of appropriate sentence”.

Protection of society and deterring the criminal is the avowed object of law and that is required to be achieved by imposing an appropriate sentence. The sentencing courts are expected to consider all relevant facts and circumstances bearing on the question of sentence and proceed to impose a sentence commensurate with the gravity of the offence. Courts must hear the loud cry for justice by the society in cases of heinous crime and when the offence is committed where the victim is a women. In this present case the crime committed is a crime against woman. Crimes against women are increasing day by day even in the virtual world and this is high time when stringent measures are to be adopted to suppress this menace.

While dealing with section 4 of the Probation of Offenders Act, 1958 it was observed that in such case that section 4 of Probation of Offenders Act could be restored to when court considers the circumstances of the case, particularly the nature of the offence, and the court forms its opinion that it is suitable and appropriate for accomplishing a specified object that the offender can be released on probation of good conduct. This court is not in a state of mind to apply section 4 of the Probation of Offenders Act as well as section 360 Cr. PC considering the galloping trend in sexual harassment of women in India when the offences is related to u/s 354A/354C/354D/509 of Indian Penal Code and sections 66E/66C/67/67A Information Technology Act 2000 (Amendment 2008) as it would convey a wrong message to the society. While considering the quantum of sentence to be imposed for such an offence one of the prime considerations should be deterrence. Undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law and society could not long endure under such serious threats. So, it is the

duty of the court having regard the nature of the offence and the manner in which it was executed and committed. It is to be decided considering the facts and circumstances of the case the factors and the circumstances in which the crime had been committed. There is no full proof formula that would provide a reasonable criteria in determining a just and appropriate punishment in the infinite variety of circumstances that may affect the gravity of the crime. The object of the court should be to protect the society and to deter the criminal in achieving the avowed object of law by imposing appropriate sentence. The social impact of crime against women have great impact on social order and public interest cannot be lost sight of and *per se* require exemplary treatment. Any liberal attitude by imposing meager sentences or taking sympathetic view will be against social interest. Thus this court has not only to keep in view the rights of the offender but also the rights of the victim of the crime and the society at large while considering the imposition of sentence.

In this instant case the convict Animesh Boxi @ Ani Boxi @ Ani Bokshi by uploading the nude pictures and videos of the victim of this case in the virtual world is not only restricted to India but is available all over the world and everyday virtual rape is committed against the victim of this case when someone sees the video in the virtual world. Even for sake the contents are removed from the virtual world but what will happen if anybody had already downloaded those and again it will spread in the virtual world and it will never end and virtual rape will be committed against the victim till the last day of her life. The convict Animesh Boxi @ Ani Boxi @ Ani Bokshi who is a student of Engineering College knows about the consequences of it very well. The type of crime as committed by the convict this court thinks that the sentence will run as per section 31 of Cr. PC. as regarding this the court followed the judgment *(2015) 2 Supreme Court Cases 501*. Women should be treated with utmost respect and if the court starts liberal approach towards such offences then the society at large will be at stake. Thus inadequate sentence can do harm to the society. This court also holds that the victim is entitled to get compension under the victim compensation scheme.

Thus this court thinks that period of sentence coupled with fine would meet the ends of justice.

Hence it is

ORDERED

That the convict Animesh Boxi @ Ani Boxi @ Ani Bokshi is sentenced to suffer rigorous imprisonment for two months and fine of ₹1000/- i/d simple imprisonment for one month for the offence u/s 354 A of IPC, sentenced to suffer simple imprisonment for two months and fine of ₹1000/- i/d simple imprisonment for 1 month for the offence u/s 354 C of IPC, sentenced to suffer simple imprisonment for four months and fine of ₹1000/- i/d simple imprisonment for 2 months for the offence u/s 354 D of IPC, sentenced to suffer simple imprisonment for four months and fine of ₹1000/- i/d simple imprisonment for 2 months for the offence u/s 509 of IPC, sentenced to suffer simple imprisonment for four months and a fine of ₹1000/- i/d simple imprisonment for 2 months for the offence u/s 66 E Information Technology Act, sentenced to suffer simple imprisonment for four months and fine of ₹1000/- i/d simple imprisonment for 2 months for the offence u/s 66 C Information Technology Act, sentenced to suffer simple imprisonment for four months and fine of ₹1000/- i/d simple imprisonment for 2 months for the offence u/s 67 Information Technology Act and sentenced to suffer simple imprisonment for three years and a fine of ₹2000/- i/d simple imprisonment for 6 months for the offence u/s 67 A Information Technology Act.

The victim is entitled to get compensation under the victim compensation scheme from the District Legal Services Authority, Purba Medinipur as per the provision of section 357A of Cr. PC in accordance with law.

Imprisonment to be commenced one after the expiration of the other.

Let the convict be sent to prison by warrant for serving out sentences.

The period of detention, if any, undergone by the convict during investigation, inquiry or trial shall be set off as per the provision of section 428 of Cr. P.C.

Bail bond of the convict Animesh Boxi @ Ani Boxi @ Ani Bokshi stands rejected.

Seized alamats be disposed of accordingly after the period of appeal in accordance with law.

Let the copy of this judgment be supplied to the convict free of cost.

As the convict submitted before this court that he would engage his private lawyer at the time of appeal so this court finds no reason to inform DLSA.

HCC Copying Department to make ready the copy of the same for the convict.

Judgment delivered in open court, signed and sealed under my hand on this date i.e. on 7th day of March, 2018.

S/d

Gautam Kumar Nag
Judicial Magistrate,
3rd Court,
Tamluk,
Purba Medinipur.