

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, FTC, BISWANATH CHARIALI,
SONITPUR, ASSAM

Sessions Case No. 101/2019

u/s 376/506 IPC

(Arising out of GR Case No. 741/2019)

State of Assam

-vs-

Sri Naba Kanta Das @ Nipul

..... Accused person

Present: Sri Dipankar Bora, MA, LL.M., AJS,
Additional Sessions Judge, FTC,
Biswanath Chariali, Sonitpur.

Committed by:
Learned SDJM (M), Biswanath Chariali

Advocates Appeared:-

For the prosecution: Ms. J. Kalita, learned Addl. P.P

For the defence : Mr. T. Borah, learned Advocate

Date of recording Evidence: 04.02.2021.

Date of Argument : 04.02.2021.

Date of Judgment : 04.02.2021.

J U D G M E N T

1. The prosecution case in brief is that on 07.10.2019 the informant (name is withheld) lodged an FIR with the O/C Behali PS stating inter alia that on the same day at about 1.30 am, the accused Naba Kanta Das came to her house and thumped the door. When she opened the door, he grabbed her and by gagging her mouth committed rape on her. When she told him that she would inform the police about the occurrence, he threatened to kill her. As her nephew, Sumanta Das arrived there after witnessing a Puja and noticed the occurrence, the accused fled the place after leaving a mobile handset and a half pant.
2. Receiving the same, the police registered a case and investigated the matter. After investigation, the police submitted charge sheet against the accused u/s 376/506 IPC.
3. The accused in due course, appeared before the court of learned SDJM(M), Biswanath Chariali, wherein the copies of the relevant documents were furnished to him. As the offence charged u/s 376 IPC is exclusively triable by the Court of Sessions, the case was committed to this court for disposal.

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4/2/2021
Addl. Sessions Judge
Biswanath Chariali, Sonitpur



4. After appearance of the accused person before this court and upon hearing both the sides on the point of charge, taking note of the materials furnished u/s 173 CrPC, as this Court found grounds for presuming that the accused had committed offences u/s 376/506 IPC, the charges were accordingly framed against him, which on being read over and explained, the accused pleaded not guilty.
5. During trial, the prosecution examined the victim as PW1. Looking into her evidence, the prosecution declined to examine the remaining witnesses. As such, taking note of the evidence of this vital witness, the prosecution evidence was closed. As no incriminating evidence was found against the accused, the examination of the accused u/s 313 CrPC was dispensed with. The case was thereafter, argued by both the sides.


Points for determination

- i) Whether the accused on the day of the alleged occurrence committed rape on the informant/victim?
- ii) Whether the accused on the day of the alleged occurrence criminally intimidated the informant/victim?

Discussion, Decision and Reasons thereof

6. PW 1 is the informant/Victim. She stated that the incident took place on a day in the year 2019. On that day, the accused entered into her house after witnessing a puja. She had previous acquaintance with the accused. Her neighbours suspected of their relationship and pressurized her lodge the 'ejahar' falsely, which she proved as Ext.1. She categorically stated that the accused did not misbehave her. She stated that the accused is innocent. She proved her statement recorded u/s 164 CrPC as Ext.2. She was medically examined during the course of investigation of the case. In her cross, she stated that her statement u/s 164 CrPC was given by her in the manner as was taught to her by the villagers.
7. Thus from the evidence of the vital witness, we find no material against the accused to convict him on the offences charged against him. The learned Addl. PP during arguments further pointed out that there is nothing adverse found in the medical examination report of the victim. Thus it is found that the prosecution has failed to prove its case. As such, the accused is acquitted from the offences charged against him and set at liberty forthwith. His bail bond stands discharged. The provision of Sec. 437-A CrPC is not complied with after taking note of the materials on record. A copy of the judgment be forwarded to the District Magistrate, Sonitpur in compliance with the sec. 365 Cr.P.C. The case is disposed of.

Given under my hand and seal of this court on this the 4th day of February,
2021.


 (D. BORA) 4/2/2021
 Additional Sessions Judge, FTC,
 Biswanath Chariali, Sonitpur, Assam.

Addl. Sessions Judge
 Biswanath Chariali, Sonitpur, Assam.

ANNEXURE

Witnesses examined by the Prosecution:

PW1- Informant/Victim

Exhibits proved by the prosecution witnesses:

Ext.1- Ejahar

Ext.2- Statement of the victim u/s 164 CrPC

Witnesses examined by the Defence:

None

Documents exhibited by the Defence:

None.



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4/2/2020
A. S. Sampath
Biswanath Choudhary, Secy