

**IN THE COURT OF THE SESSIONS JUDGE SONITPUR:: TEZPUR**

**SESSION CASE NO. 52 of 2020**

Under section 366 of I.P.C  
(Arising out of G. R Case No. 3242 of 2019)

**State of Assam**

**-Vs-**

**Mainuddin @ Mainul**

...Accused Person

**Present: Smti I. Barman,  
Sessions Judge,  
Sonitpur : Tezpur.**

For the State : Mr. M.C. Baruah, Public Prosecutor

For the accused : Mr. Babul Borthakur, Advocate.

Date of Argument : **11-02-2021**

Date of Judgment : **11-02-2021.**

**JUDGMENT**

**1.** The prosecution case in brief is that on 27-08-2019 at around 7 PM accused Mainuddin @ Mainul abducted the informant's daughter victim 'X' aged about 17 years.

**2.** On receipt of the ejahar from the mother (PW2) of the victim, Thelamara P.S. Case No. 98/19 u/s 366(A) of the IPC was registered and endorsed SI Mahendra Nath to investigation of the case. During investigation, the Investigating Officer recorded the statement of the

witnesses, sent the victim for medical examination, got recorded her statement u/s 164 Cr.P.C., and on completion of investigation having found materials submitted charge-sheet against the accused Mainuddin @ Mainul u/s 366(A) of the IPC.

3. On appearance of the accused person, Learned Chief Judicial Magistrate, Sonitpur, Tezpur vide order dated 24.02.2020 furnishing copies of the documents as required under section 207 Cr.P.C, committed the case to the court of Session, being the offence u/s 366(A) IPC exclusively triable by the court of Session.

4. Accordingly, on being appeared the accused person before this Court, after hearing both parties, charge u/s 366 of the IPC was framed against the accused Mainuddin @ Mainul and particulars of the charge on being read over and explained to the accused person, he pleaded not guilty and claimed to face trial.

5. To substantiate the case, prosecution examined three witnesses. In statement recorded u/s 313 Cr.P.C, accused denied the allegations charged against him and examined none.

6. I have heard the argument of learned counsel of both sides and also have gone through the evidence on record.

7. The point for decision in this case is that -

***(1) Whether accused Mainuddin @ Mainul on 27-08-2019 at around 7.00 PM at Khagorizan, under Thelamara P.S., abducted the victim 'X' with intent that she might be compelled to marry the accused against her will or in order or knowing it to be likely that she might be forced or seduced to illicit intercourse with the accused and thereby committed an offence punishable under section 366 of the IPC ?***

**Discussions, Decisions and reasons thereof:**

**8.** In order to appreciate the argument advanced on behalf of both the sides, it is considered next to outline a sketch of the evidence on record.

**9.** PW 1 is the victim herself. She admitted that on the day of incident she eloped with the accused to Datalguri and stayed there together for 15 days in the house of the sister of the accused. She also stated that on being called by the police, she along with accused came to the police station. She proved her statement u/s 164 Cr.P.C. as Ext. 1. She also admitted that later on she got married with the accused and still they are residing as husband and wife.

**10.** PW 2 the informant as well as mother of the victim girl stated that her victim daughter went with the accused Mainuddin @ Mainul. Later on, accused married her daughter. She further stated that when the victim went with the accused, she filed the FIR. She further stated that after the victim and the accused came back, marriage was solemnized between them and the victim is presently residing with the accused.

During cross she admitted that at the time of the incident her daughter was major one.

**11.** PW 3 father of the victim categorically deposed that when his daughter went with the accused, his wife lodged the FIR. He also admitted that at the time of incident his daughter was 18 years old. Later on, when his daughter and the accused came back, marriage was solemnized between them and the victim is still residing with the accused as husband and wife

**12.** In this case admittedly the victim is a major one at the time of incident. Now coming to the facts of this case, the core witness the victim (PW1) in examination-in-chief stated that she voluntarily went with the accused to Datalguri and stayed there together for 15 days in

the house of the sister of the accused and on being called by the police she along with accused came to the police station. In statement u/s 164 Cr.P.C. victim also admitted that she had love relation with the accused and on 19-08-2019 at 7 PM she eloped with the accused Mainuddin @ Mainul voluntarily. The evidence of the parents of the victim also disclosed that their victim daughter eloped with the accused voluntarily and after they came back, their marriage was solemnized and both of them are residing as husband and wife.

**13.** From the above discussions, it is clear that the victim being a major voluntarily went with the accused. No force was used on the part of the accused. The evidence of the PWs does not suffer from any ambiguity in that respect. Presently, they are living together as husband and wife.

**14.** In the above facts and circumstance of the case, I unhesitatingly hold that the prosecution failed to prove the ingredients of the offence charged. Accordingly, accused Mainuddin @ Mainul is acquitted from the charge u/s 366 IPC and set him at liberty forthwith. His bail bond shall extended till next six months in view of section 437 A of Cr.P.C.

**15.** Send back the GR case to the learned committal court.

**16.** Judgement is pronounced and delivered in open court under the Seal and signature of this Court on the **11<sup>th</sup> day of February, 2020.**

**(I.Barman)**

Sessions Judge,  
Sonitpur, Tezpur.

**APPENDIX**

**Prosecution Witness**

- 1. PW 1 :-** Informant / Mother of the victim.
- 2. PW 2 :-** Victim.
- 3. PW 3:-** father of the victim

**EXHIBITS.**

**Exhibit 1** : Statement of the victim u/s 164 Cr.P.C.

**(I.Barman)**

**SESSIONS JUDGE,  
Sonitpur, Tezpur**