

**IN THE COURT OF SUB-DIVISIONAL JUDICIAL
MAGISTRATE(M), GOHPUR**

PRESENT: SRI KAUSHIK KUMAR SHARMA

S.D.J.M(M), GOHPUR

GR: 748/13

U/S 343 of IPC

STATE OF ASSAM.....PROSECUTION

v.

Smti Nirmali Bordoloi Borah.....ACCUSED

**Ld. Advocates: For Prosecution.....Smti Bornali Chetia,
Ld.APP**

For Defence.....Smti Swapna Sikha Baruah, Ld. Advocate

Evidence Recorded on : 20.2.15, 11.3.15, 16.5.15

Argument heard on: 16.5.15

Judgment delivered on: 16.5.15

J U D G M E N T

1. The prosecution's case is that the accused, Sri Smti Nirmali Bordoloi Bora, had wrongfully confined the wife of the informant, Smti Bornali Bora, for more than three days, in her house, when Smti Bornali Bora, who is the daughter of the accused. Hence, the case.
2. The informant, Sri Dhanti Saikia, had lodged a complaint petition in the court, which was forwarded to the police station, u/s 156(3) of Cr PC, which had led to the registration of Gohpur P.S Case no. 225/13 u/s 343/312 of IPC. After investigation, charge sheet was filed against the accused, u/s 343 of IPC.
3. Particulars of the offence u/s 343 IPC were explained to the accused, to which she had pleaded not guilty and claimed to be tried. The prosecution had examined three witnesses and one witness was examined as Court witness. The examination of the accused u/s 313 CrPC, was carried out.

The accused has pleaded innocence. The defence side did not adduce any evidence. Heard arguments.

4. POINTS FOR DETERMINATION:

- 1) Whether the accused, had wrongfully confined the wife of the informant, Smti Bornali Bora, in the house of the accused for more than three days?

DISCUSSION AND DECISION BASED ON REASON:

4. PW1, Smti Thaneswari Bordoloi, in her examination in chief has stated that she does not know anything about the case. The said witness was declared as a hostile witness.
5. PW2, Sri Paramanada Bhuyan, in his examination in chief has stated that the accused and her husband had complained to him that the accused had abducted their daughter about a year ago. After two days, he had gone to the house of the informant, and there, he saw the daughter of the accused. The said daughter had told him that the accused had abducted her and had brought her to his house. She told him that she would come with him, if the informant permits her to come. He had told the informant and his parents to discuss the matter with the parents of the girl. He also stated that at present, the girl(daughter of the accused), is staying in the house of her mother(accused). He stated that who had brought her and how she was brought, he does not know.
6. In his cross examination, he has stated that the girl has been staying with her mother from last year. He stated that a complaint was lodged before him, that the accused along with other men, had gone to the house of the accused and had caused damage to the house and door of the accused.
7. PW3, Sri Dul Bordoloi, in his examination in chief has stated that he does not know anything about the case.
8. CW, Smti Bornali Bora, in her examination in chief has stated that on 17.09.13, she had gone to the house of her aunty, Smti Bheteki Saikia. In the evening when she was talking with her, then some men came and took her away in a van forcibly. She was blindfolded. She did not know, where she was being taken. The informant had taken her away. Her mother had lodged a case. She stated that he

mother had sent the gaonbura. She stated that she had fled from the house of the accused. She somehow, could manage to come to her house.

9. In her cross examination, she has stated that her mother had not confined her forcibly in her house.

10. PW5, Sri Dhanti Saikia, the informant, in his examination in chief has stated that he had eloped with Smti Bornali Bora, and married her. He stated that when she was 1 ½ month pregnant, she had gone to the house of the accused(mother). But the accused had given her medicine to destroy the foetus and kept her in her house. He also stated that he does not know, where she is at present. Ext 1 is his FIR, and Ext 1(1), 1(2) and 1(3) are his signatures

11. In his cross examination, he stated that he does not remember the date. He stated that Bornali was being medically examined by him. But he did not submit medical documents with the case. He denied the suggestion that Boornali had never became pregnant and that the accused had not administered any medicine to her. He had gone along with village headman to being Bornali. He does not know the name(of the village headman). He denied the suggestion that he had badly assaulted Bornali and that is why she came out of his house on her own. He stated that the accused had lodged a case against him. He denied the suggestion that he had lodged this case in order to save himself from the case against him.

Appreciation of evidence:

12. The case of the prosecution is that the accused had wrongfully confined Smti Bornali Bora in her house. But Smti Bornali Bora , in her evidence has stated that the informant had abducted her and her somehow managed to get away from the house of the informant. She stated that she was not confined by the accused, which is her mother. Hence, in the presence of the clear evidence of the CW, Smti Bornali Bora, the prosecution case falls flat. Hence, the assertion of PW5, the informant that Bornali Bora was confined by the accused, is not believable. No other PWs have supported the assertion of the informant. Further, the allegation of the informant that the accused had administered medicine on Bornali Bora to destroy her foetus has not been supported by any other PWs. In fact, Smti Bornali Bora, herself, did not

state that her mother had administered any medicine to her. In fact she did not even state that she was pregnant. Prosecution did not produce any medical document to show that Bornali Bora was pregnant.

13. In the light of the above, I am of the considered view that the prosecution has failed to prove the guilt of the accused, u/s 343 of IPC. Hence, the accused is acquitted from the charge u/s 343 of IPC, and is set at liberty forthwith.

14. The judgment is pronounced in the open court on this 16th of May, 2015. The judgment is prepared under my hand and seal of this Court.

15. The bail bond shall remain operative till 6 months from the date of this order and shall stand cancelled after the expiry of 6 months.

16. The case is, accordingly, disposed of.

(K.K. Sharma)

S.D.J.M, Gohpur.

ANNEXURE

LIST OF DOCUMENTS EXHIBITED BY PROSECUTION

EXT.1: FIR

S.D.J.M, Gohpur