

P.R No-481 of 2019
(State of Assam Vs. Sri Pankaj Barman)

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, SONITPUR:: TEZPUR

P. R. Case No. 481 of 2019

(Under Section-363 of I.P.C)

Present:- **Sri N. J. Haque, AJS,**
Chief Judicial Magistrate
Sonitpur, Tezpur

State of Assam

-Vs-

Sri Pankaj Barman

S/O:- Late Naren Barman

R/O:- Cotton Road

P/S:- Tezpur, SonitpurAccused Person

Advocate appeared:

Mrs. Niva Devi, Addl. P.P..... For the State

Mr. Biswajit Tamuli & Anr, Ld. Advocates..... For the accused person

Evidence recorded on :- 03.02.2021

Date of Statement of defence :- 03.02.2021

Argument heard on :- 03.02.2021

Judgment delivered on :- 03.02.2021

J U D G M E N T

History of Prosecution's Case

1. Prosecution's case appears to be in a narrow campus is that one Smt. Pallabi Barua, lodged an ejahar before the Officer-In-Charge of Tezpur Police Station alleging inter alia that around one month back (since filing the ejahar) accused Sri Pankaj Barman abducted her daughter named Miss Dipika Baruah and kept her confined at a place called Jhahazghat near Cotton Road, Tezpur. It is also alleged that when she came to know about the same, she along with her husband on 19.07.2018 at about 4 PM went to there and on being came to know about the same, the accused along with four others abused them with filthy languages and threatened them of dire consequences of their lives.

"INVESTIGATION"

2. On receipt of the ejahar, Tezpur P.S case No. 1538 of 2018 u/s-363/372/511 of IPC

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was registered and investigated into and on completion of the investigation, the I.O has submitted charge sheet against the accused person, named, Sri Pankaj Barman u/s-363 of I.P.C.

CHARGE & TRIAL

3. In pursuant to the court process, the accused person appeared before the court and he was allowed to go on bail. Copies u/s-207 of CrPC was furnished to the above-named accused person. After hearing both sides, charge of offence u/s-363 of IPC was read over and explained to the accused person by my Ld. Predecessor in office, to which he pleaded not guilty and claimed to be tried.

STATEMENT OF DEFENCE

4. The prosecution side to prove the case examined only two numbers of witnesses including the victim of this case. Considering the testimonies of the informant and the victim, the prosecution side declined to adduce further evidence before this court. Hence, the evidence of prosecution side is closed. Examination of accused under section-313 of Cr.P.C is dispensed with as from the testimonies of the prosecution witnesses nothing implicating disclosed against the accused.

ARGUMENT

5. I have heard arguments of both sides and travelled through the entire case record in the backdrop of evidences on the record.
6. **The points for determination in this case are:** -
 - (i.) Whether the accused person on 19.07.2018 at about 4 PM at a place called Jhazghat under Tezpur PS, kidnapped informant's daughter named Miss. Dipika Baruah from the lawful guardianship of her mother Smt. Pallabi Baruah and thereby committed an offence punishable u/s-363 of IPC?

DECISION AND THE REASONS THEREON:

7. The informant in his ejahar opposed that around one month back (since filing the ejahar) accused Sri Pankaj Barman abducted her daughter named Miss Dipika Baruah and kept her confined at a place called Jhahazghat near Cotton Road, Tezpur. It is also alleged that when she came to know about the same, she along with her husband on 19.07.2018 at about 4 PM went to there and on being came to

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know about the same, the accused along with four others abused them with filthy languages and threatened them of dire consequences of their lives. In this case prosecution side to prove the case examined the informant and the victim of this case. I have carefully travelled through the testimonies of the informant and the victim in the backdrop of entire prosecution case and it finds:-

8. PW-1 being the informant of this case deposed before this court that she knows the accused of this case. She also deposed that around three years back one day her daughter Dipika Baruah fled away with the accused and the due to miss-understanding, she lodged the ejahar against the accused. She further deposed that after 3-4 days of the occurrence, her daughter recovered from Nagaon. Now, her daughter is residing with them. She admitted that she came to know from her daughter that accused did not kidnap her daughter. She also deposed that her daughter herself went with the accused. She identified the ejahar lodged by her as Ext-1 wherein she put her signature as Ext-1(1). PW-1 in her cross-examination testified that she does not have any objection if the accused gets acquittal from this case.
9. PW-2 Miss Dipika Barua being the victim of this case deposed that the informant is her mother. The accused is known to her. She also deposed that around three years back one day she went with the accused to Nagaon and thereafter, due to miss-understanding her mother lodged the ejahar against the accused. She also deposed that after 3-4 days, she came to her house. She admitted that accused had not kidnapped her and she herself went with the accused. PW-2 in her cross-examination testified that she does not have any objection if the accused gets acquittal from this case.
10. Hence, it apparently appears before this court that PW-1 being the informant-cum-mother of the victim not implicated the accused person in any manner with the alleged occurrence by stating that accused had not kidnapped her daughter. She simply deposed before this court that around three years back her daughter herself went with the accused from her house and thereafter recovered from Nagaon and due to miss-understanding she lodged the case against the accused. Further, she does not have any objection if the accused person is acquitted acquittal from this case. As such

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it is seen that the informant herself contradicted the version of her ejahar lodged by her.

11. PW-2 being the victim of this case also contradicted the entire contentions of the ejahar by way of testifying that around three years back she herself went with the accused to Nagaon. PW-2 further deposed that accused had not kidnapped her. She in her cross-examination testified that she does not have any objection if the accused person gets acquittal from this case.
12. To sum up the testimonies of the witnesses, it divulges before this court that the witnesses appear to be contradictory with the entire contentions of the ejahar and as such their testimonies cannot be relied upon.
13. In view of the above evidence on record, I am of the opinion that prosecution side has failed to prove the charges against the accused person, Sri Pankaj Barman beyond reasonable doubt and as such the accused person is acquitted from the charges u/s-363 of IPC and sets at liberty. Surety is extended for six months in view of section-437A of Cr PC.
14. Accordingly, the case is disposed of. Judgment is prepared and pronounced in open court. Given under my hand & seal of this court on this 03rd day of February, 2021 at Tezpur.

(Sri N. J. Haque)
Chief Judicial Magistrate,
Sonitpur: Tezpur

ANNEXURE

1. Witnesses for Prosecution: -

PW-1:- Smt. Pallabi Baruah, the informant

PW-2:- Miss. Dipika Baruah, the victim

2. Witnesses for Defence: NIL

3. Court Witnesses: NIL

4. Prosecution Exhibits:

Ext-1 :- FIR

Ext-1(1) :- Signature of Informant

5. Defence Exhibits: NIL

6. Material Exhibits: NIL

**Chief Judicial Magistrate
Sonitpur, Tezpur**