

**IN THE COURT OF THE ASSISTANT SESSIONS
JUDGE, SONITPUR AT TEZPUR**

PRESENT : Sri P.C. Kalita, AJS,
Assistant Sessions Judge,
Sonitpur, Tezpur.

SESSIONS CASE NO. 216 OF 2013

GR Case No. 2575/11.

Under Section 366 of Indian Penal Code

State of Assam

–Versus –

Sri Sanjib Thakur,
Son of Sri Bhola Thakur,
Vill – Moinajuli,
PS – Dhekiajuli,
Dist – Sonitpur, Assam. **Accused Person**

ADVOCATES APPEARED:

For the State : Sri Mahendra Bora,
Additional Public Prosecutor

For the accused person : Sri L. Sahahni and
Sri A. Sahani,
Advocates

Date of evidence : 09-05-2014.

Date of Argument : 28-05-2014.

Date of Judgment : 28-05-2014.

J U D G M E N T.

1. The prosecution case, inter-alia, in brief is that the informant Smti Punam Rani, lodged an ejahar in the Chariduar Police Out Post under Rangapara Police Station alleging that on 21-11- 2011, her daughter, a class X student of Lokra Central School, was missing from the school. She made enquiry from the

friends of her daughter and came to know that accused Sanjib Thakur and Ranjit Thakur had forcibly taken away her daughter.

2. On the basis of the aforesaid ejahar, the Officer-in-Charge of Rangapara PS registered a case, conducted investigation and thereupon laid chargesheet u/s 366 of IPC against the accused Sanjib Thakur.

3. After appearance of the accused person before the Court, the learned Judicial Magistrate, Ist class, Tezpur, committed the case to the Court of learned Sessions Judge, Sonitpur, Tezpur. Thereafter, the learned Sessions Judge, Sonitpur, Tezpur transferred the case to this court for trial. Considering the materials available on case record and relevant documents of case diary, the charge was framed against the accused Sanjib Thakur under Section 366 of IPC. Then the contents of charge was read over and explained to the accused to which, he has pleaded not guilty and claimed to be tried.

4. To bring home the charge, the prosecution has examined only 2 (two) PWs including the victim. Considering the weightage of the PWs and at the instance of the learned Addl. Public Prosecutor, further prosecution evidence is closed. The accused is examined u/s 313 CrPC. The pleas of the accused are of total denial and he has declined to adduce any defence witness.

5. **Point for determination:**

(i) Whether the accused on 21-11-2011 at Lokhra under Rangapara Police Station, kidnapped / abducted the victim with intent (or knowing it to be likely) that she might be compelled to marry with him against her will or in order (or knowing it to be likely) that she might be forced (or

seduced) to illicit intercourse with him and thereby committed an offence punishable u/s 366 of IPC ?

Discussions, Decision and reasons thereof:-

6. I have carefully perused the evidence and the materials available on the case record. Heard arguments of both sides. Now, let us examine the evidence of PWs to decide the case at hand.

7. PW 1, the prosecutrix, stated that the informant is her mother. She knows the accused person Sanjib Thakur. About 3 years back, one day, she went to Delhi with the accused without informing her parents. At that time, her age was 18 years. Knowing about the filing of the case, they surrendered before the police. Police got her examined medically, recorded her statement through the court. Ext. 1 is her statement u/s 164 Cr.P.C and Ext. 1(1) and 1(2) are her signatures thereon. Now, she has been living with the accused as husband and wife.

PW 2, Smti Punam Rani, the informant, the mother of the prosecutrix, stated that, one day, about 3 years back, her daughter was missing from the school, then she lodged the ejahar. At that time, her daughter was 18 years old. After 15 days of the incident, police recovered her daughter and thereafter handed over to her, but, thereafter her daughter again went with the accused. Now, they are living as husband and wife. Ext. 2 is the ejahar and Ext. 2(1) is her signature.

8. **8.** Now, from the evidence on record, it is seen that the prosecutrix, PW 1, in her deposition nowhere stated that the accused had kidnapped her. Rather, during cross-examination, this PW 1 stated that she, on her own will went along with the accused. She has no objection if the accused is acquitted and does not want

to proceed with the case. PW 2 also does not support at all the prosecution version.

It is, thus, seen that the prosecutrix was a major, above 18 years, at the time of occurrence and she willingly went with the accused persons. So, there is no material to hold the accused person guilty u/s 366 of IPC.

9. In view of the above discussion and considering all aspects, I hold that the prosecution has failed to prove the case u/s 366 of IPC against the accused beyond all reasonable doubts. Hence, I acquit the accused from the said offence.

10. The accused be set at liberty forthwith. His bail bond stands cancelled.

The case is disposed of accordingly.

11. Given under my hand and seal of this Court on this day, the 28th day of May, 2014.

(P.C. Kalita)
Assistant Sessions Judge,
Sonitpur, Tezpur.

Dictated and corrected by me.

(P.C. Kalita)
Assistant Sessions
Judge,
Sonitpur, Tezpur.

Typed by me.

(R. Hazarika),
steno.

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A P P E N D I X

Prosecution witnesses :

PW 1 : victim

PW 2 : Smti Punam Rani (informant)

Defence Witness : Nil

Court Witness : Nil

Prosecution Exhibits: :

Exhibit 1 : 164 Cr.P.C statement of victim.

Exhibit 2 : Ejahar

Material Exhibits: : Nil

Defence Exhibit : Nil

Court Exhibit : Nil

Exhibit produced by witness : Nil

(P.C. Kalita)
Assistant Sessions Judge,
Sonitpur : Tezpur.