

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

**Sessions Case No. 183/2013**

u/s 448/366/34 IPC

(Arising out of GR Case No. 353/2005)

State of Assam

-vs-

Musst. Tara Begum

..... Accused person

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

Committed by:

Learned JMFC, Biswanath Chariali

Advocates Appeared:-

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

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

Dates of recording Evidence:06.08.2014, 10.05.2019.

Date of Argument : 10.05.2019.

Date of Judgment : 10.05.2019.

**JUDGMENT**

- Done*  
*10/5/19*
1. The prosecution case in brief is that on 29.06.2005 the informant namely, Sri Bap Rajbongshi lodged an FIR with the OC, Halem PS stating inter alia that on the same day at about 9 AM when he was away from his house, the accused Eunish Ali, Asraf Ali and Tara Begum along with an unknown person came to their house and made his wife Kabita Rajbongshi to eat one betel-nut. They kidnapped his wife after she became unconscious after eating the nut. Later, all of them were apprehended in Halem Tea Estate while one of the miscreants managed to flee. He alleged that the accused Tara Begum had brought these miscreant to their house.
  2. Receiving the same the police registered a case and investigated the matter. After investigation, the police submitted charge-sheet against the accused persons- Md. Javed Ali, Eunish Ali, Asraf Ali and Musst. Tara Begum u/s 448/366/34 IPC.
  3. The accused Tara Begum in due course appeared before the Court of learned Judicial

Magistrate, 1st Class, Biswanath Chariali. The case against the other three accused was filed declaring them as proclaimed offenders as they could not be traced out. Copies of the relevant documents were furnished to accused Tara Begum. As the offence charged u/s 366 IPC is an offence exclusively triable by the Court of Sessions, the case was committed which was later made over to this court for disposal.

4. The accused Tara Begum later appeared before this Court to face trial. Upon hearing both the sides on the point of charge, taking note of the materials furnished u/s 173 CrPC, as my learned predecessor found grounds for presuming that the accused person had committed offences u/s 448/366/34 IPC, the charges were accordingly framed against her, which on being read over and explained, she pleaded not guilty.
5. During trial, the prosecution examined four witnesses in all, including the informant Bap Rajbongshi as PW 1 and the alleged victim as PW 2. Looking into the evidence as adduced by all these witnesses, more particularly, the evidence of the victim, the prosecution declined to examine the remaining witnesses contending that further evidence would not strengthen its case. Considering the materials on record, the prosecution evidence was closed. As no incriminating evidence was found against the accused person, her examination u/s 313 CrPC was dispensed with. The case was thereafter, argued by both the sides.

**Points for determination**

- i) Whether the accused person on the day of the alleged occurrence committed house trespass by entering into the dwelling house of the informant in furtherance of common intention with the accused Javed Ali, Unish Ali and Asraf Ali?
- ii) Whether the accused person on the day of the alleged occurrence kidnapped the victim in furtherance of common intention with the other accused as named above with intent that she may be or knowing it to be likely that she will be forced to illicit intercourse?

**Discussion, Decision and Reasons thereof**


6. PW 1 is the informant, Bap Rajbongshi. He stated that the incident took place in the year 2005. He was away from his house at that relevant time. He heard that his wife, Kabita Rajbongshi was kidnapped by the accused Tara Begum with the help of two other persons. He searched for her. Later, one Kabita Mandal found his wife inside a tea garden and brought her back to his house. Later the victim told him that the accused Tara Begum had brought two persons to their house, who made her to eat betel-nut, after which she became unconscious and started to follow them on their way. He thereafter, lodged the FIR. In his cross-examination, he stated that what he has deposed was not out of his own

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knowledge but was based on whatever he had heard.

7. PW 2, the victim-Kabita Rajbongshi stated that the accused Tara Begum came to their house on that day along with a few persons and asked her to eat a betel-nut. After consuming the same, she became unconscious and thereafter, she proceeded in the direction in which they were going. Later, Kabita Mandal found her and brought her back. She proved her statement recorded u/s 164 CrPC as Ext. 1. In her cross-examination, she stated that on the said day of occurrence, the accused Tara Begum had only introduced the other miscreants to her and thereafter, she had left for her work.
8. From the evidence of PW 2, we find that the accused Tara Begum had only introduced the other miscreants and she did not made the victim to eat betel-nut. This shows that the accused Tara Begum was not involved with the offences charged.
9. PW 3- Sarbananda Rajbongshi stated that the wife of the informant had gone missing about 10 years back. They found the victim alone inside the garden going towards Halem Railway Station. She was brought back thereafter. PW 4 Paban Kataki stated that the wife of the informant had gone missing at that relevant time, who was later recovered from Halem Tea Estate. According to him, when he had asked the victim, she stated that she had come there for an outing.
10. Thus from the evidence of all theses witnesses, more particularly, from the evidence of PW2-the victim, we find no incriminating evidence against the accused person to convict her on the offences charged against her. The prosecution has failed to prove its case. As such I acquit the accused person from the offences charged against her and set her at liberty forthwith. The provision of Sec. 437-A CrPC is not complied with after taking note of the evidence 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 10th day of May, 2019.

  
(D. BORA) 10/5/19  
Additional Sessions Judge, FTC,  
Biswanath Chariali, Sonitpur, Assam.

**ANNEXURE**

**Witnesses examined by the Prosecution:**

- PW1- Sri Bap Rajbanshi
- PW2- Smti Kabita Rajbanshi
- PW3- Sri Sarbananda Rajbanshi
- PW4- Sri Paban Katoky



**Exhibits proved by the prosecution witnesses:**

- Ext.1- Statement of the victim u/s 164 CrPC

**Witnesses examined by the Defence:**

None.

**Documents exhibited by the Defence:**

None.

*None*  
*10/5/19*

Attor. General, Cuttack  
Sessions Judge, Cuttack