

**IN THE COURT OF THE ADDL. SESSIONS JUDGE, FTC, AT
BISWANATH CHARIALI, SONITPUR.**

Sessions Case No.298/14

Arising out of G.R. Case No.436/14

U/S-366, IPC.

Present :-

Mrs. M. Deb
Additional Sessions Judge,
Biswanath Chariali.

The State of Assam

- Vs -

Sri Hemanta Borah Accused.

Advocates appeared :-

For the State

: Mr. H. Hazarika, Addl. P.P.
Biswanath Chariali.

For the accused

:- Mr. J. Bordoloi,
Advocate, Biswanath Chariali.

Date of argument

:- 22-05-15.

Date of Judgment

:- 22-05-15.

J U D G M E N T

Facts of the case :-

1. The prosecution case in a nutshell is that on 09-06-14, the accused person namely Hemanta Borah kidnapped Rubi Sahu, the daughter of the informant, when she was proceeding towards her college. The informant lodged the FIR on the above facts, with Halem P.S. on 10-06-14.

2. On receipt of FIR, the police registered the case and investigated the same and found material against the accused person U/S-366 IPC and submitted charge-sheet against the accused persons U/S-366, IPC.

Contd.....P/2

(2)

3 After observance of all the formalities for furnishing copies of relevant documents, as mandated U/S-207, Cr. P.C., the case was committed to the Court of Sessions and thereafter the said case was transferred to this Court for disposal.

4. On appearance of the accused person before this Court, after hearing the learned Counsel from both sides and basing upon the materials on record, a charge U/S-366, IPC was framed and particulars of accusation were read over and explained to the accused, to which he pleaded not guilty and claimed to be tried.

POINTS FOR DETERMINATION :-

5. In the instant case, it is to be determined :-

(a) If the accused person on 9-06-14, kidnapped Rubi Sahu, the daughter of the informant ?

6. The prosecution examined only two witnesses but both of them did not support the case on material aspects and as such examination of the accused, so warranted U/S-313, Cr. P.C. was dispensed with. Defence side denied to adduce any evidence.

7. I have heard the learned Counsel of both sides. Perused the evidence on record and came to the following decision.

DECISION AND REASONS THEREOF :-

8. As could be gathered from the record, only two witnesses have been examined by the prosecution to establish the offence of kidnap. PW-1 is the father of the victim and PW-2 is the victim herself.

Contd.....P/3

9. PW-1, Sri Ramanand Sahu is the father of the victim Rubi Sahu. According to him, in the year,2014 his daughter namely ; Rubi Sahu fled away with the accused person and at that time his daughter was about 19 years old and after 9/10 days he along with his family members recovered his daughter along with the accused person. He proved his FIR as Ext.1. In his cross-examination, he stated that after one month of the occurrence his daughter Rubi Sahu was married to the accused and now she is living with the accused person happily and that he has no allegation against the accused and now he did not want to proceed with the case as his daughter is living happily with the accused person.

10. PW-2, Rubi Sahu(Victim). According to her, on 9-6-14 she fled away with the accused person without consent of her parents and after 10 days police recovered her and the accused person from Balijan Sootea. In her cross-examination, she stated that after one month of the occurrence, she was married to the accused person socially and now she is living with the accused/husband happily and that her parents agreed with their relationship and they also accepted the accused person as her husband.

11. Above being the evidence on record, let me see how far such evidence makes out the allegation against the accused person.

12. In the instant case, the prosecution has alleged that daughter of the informant was kidnapped by the accused person but it was negated by the victim Rubi Sahu. In her evidence, she has very emphatically stated that she went with the accused person on her own volition and after one month of the occurrence, she was married to the accused person and now she is staying with the accused/husband happily and her parents accepted the accused person as her husband. PW-1, father of the victim, supported the evidence of his daughter

(4)

Rubi Sahu by stating, inter-alia that after one month of the occurrence, his daughter Rubi Sahu was married to the accused person and now they are leading their conjugal life together peacefully and happily.

That being the position, I am of the opinion that the prosecution has failed miserably to establish the case against the accused person U/S-366, IPC beyond all reasonable doubt.

13. Conclusion :-

In the light of the above discussion, I hold that the accused person is not guilty and thereby he is acquitted from the charge U/S-366, IPC and set at liberty forthwith. Bail bond if any, stands cancelled.

Given under my signature and seal of this court on this 22rd day of May,2015.

(Mrs. M. Deb)
Additional Sessions Judge,
Biswanath Chariali.

Dictated & Corrected by me

(Mrs. M. Deb)
Additional Sessions Judge
Biswanath Chariali.

* * * * *

(5)

Sessions Case No.298/14
Arising out of G.R. Case No.436/14

A P P E N D I X

Prosecution witnesses :-

PW-1 – Sri Ramanand Sahu

PW-2 - Smti Rubi Sahu

Prosecution Exhibits :-

Ext.1 - F.I.R.

EXT.2 - Statement of the victim Rubi Sahu

Defence Witnesses

Nil.