

IN THE SPECIAL COURT :: SONITPUR, TEZPUR:: ASSAM

PRESENT:- N. AKHTAR, AJS
Addl. Sessions Judge,
Sonitpur::Tezpur.

Special (POCSO) Case No. 47 of 2017.

U/s. 376 IPC read with Sec. 4 of POCSO
Act, 2012.

State of Assam

-Vs-

Habibur Rahman

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| FOR THE PROSECUTION | :- | Mr. S.K.Moitra, Special PP. |
| FOR THE DEFENCE | :- | Mr. F. Haque, Advocate. |
| EVIDENCE RECORDED ON | :- | 09.02.2021 |
| ARGUMENTS HEARD ON | :- | 09.02.2021. |
| JUDGMENT DELIVERED ON | :- | 09.02.2021. |

JUDGMENT

1. The case of the prosecution in brief is that on 11.8.2016, at about 5 pm, while the daughter of the informant was coming to her house through jute field, the accused showing her dagger forcefully took her to the midst of the jute cultivation and committed rape on her. Hence the FIR was lodged.
2. Based on the said FIR, Jamuguri PS Case No. 116/2016 U/s 376 (2) (i) IPC was registered and after completion of investigation, chargesheet was laid against the accused.

3. On appearance of the accused person, copies of relevant documents were furnished to him in compliance of the provision of Sec.207 CrPC. Having heard both the sides and considered the materials on record, formal charges were framed against the accused u/s 376 IPC read with Sec. 4 of the POCSO Act, 2012 and had been read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
4. During trial, the prosecution has examined the prosecutrix. Defence has not examined any witness. At the end of the trial, the argument advanced by the learned counsel for both the sides were heard.

POINT FOR DETERMINATION

- *Whether on the alleged day of the incident, the accused committed rape on the prosecutrix and thereby committed an offence U/s 376 IPC?*
- *Whether on the same day of the incident, the accused also committed penetrative sexual assault on the prosecutrix and thereby committed an offence punishable U/s 4 of the POCSO Act, 2012?*

DISCUSSIONS, DECISIONS AND REASON FOR DECISION

5. I have heard the arguments advanced by learned counsel for both the sides and also gone through the evidence on record.
6. PW1 is the prosecutrix. She had deposed in her evidence that her father is the informant of this case and the accused is her husband. Once, the accused gave her a proposal of love and wanted to marry her but she did not accept the proposal. She told about this incident to her parents and her father had lodged the FIR on account of the said incident. Subsequently, she agreed to marry the accused and accordingly, their marriage was performed. She is now happily living with the accused

and a girl child was also born to them out of the wed-lock whose present age is four years.

7. It thus, appears from the aforesaid evidence of the prosecutrix that the prosecutrix was given a proposal of love and marriage by the accused which she rejected and this was informed to her parents by her. Then, her father had lodged the FIR. It further appears that she had subsequently married with the accused and now living happily with him and they also have a girl child born out of the wedlock. Thus, there is apparently not even an iota of incriminating evidence on record to bring home the charges against the accused. The prosecutrix herself has not supported the case of the prosecution and has given a full account of what actually happened. Therefore, no criminal liability can be attributed to the accused in this case.
8. In the result and for the discussions made hereinabove, I am constrained to hold that the prosecution has failed to prove the case against the accused beyond all reasonable doubts. **The accused is not found guilty of any offence as charged and as such, he is acquitted of the charges and set at liberty forthwith.**
9. Forward a copy of this judgment to the District Magistrate in compliance of Sec.365 CrPC.

Given under my hand and seal of this court on the 9th day of February/2021.

Typed and Corrected by me:

Addl. Sessions Judge,
Sonitpur:: Tezpur.