

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS  
SONITPUR**

Present: MANASHI NEOG, JMFC, SONITPUR

(Date of Judgment: 16.11.2022)

**PR NO. 1336/2019**

Under Section 363 of IPC

(FIR No.774/2019, registered u/s 363 of IPC at Tezpur P.S.)

<b>Complainant:</b>	<b>State of Assam</b>
Represented By:	A.K. SAHANI
<b>Accused:</b>	<b>1. JINTU GHOSH (A1)</b> S/O Shri Kajal Ghosh, Vill. Uriamguri, Police Station - Tezpur, District- Sonitpur, Assam.
Represented By:	P.K. SHARMA

### Accused Details:

Rank of the Accused	Name of Accused	Date of Arrest	Date Release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trail for purpose of Sec. 428 Cr.P.C.
A1	Jintu Ghosh	NA	NA	S.363, IPC	Acquitted	NA	NA

<b>Date of Offence</b>	<b>08.05.2019</b>
<b>Date of FIR</b>	<b>09.05.2019</b>
<b>Date of Charge sheet</b>	<b>31.05.2019</b>
<b>Date of Framing of Charges</b>	<b>19.02.2021</b>
<b>Date of commencement of evidence</b>	<b>16.11.2022</b>
<b>Date on which judgment is reserved</b>	<b>NA</b>
<b>Date of Judgment</b>	<b>16.11.2022</b>
<b>Date of the Sentencing Order, if any</b>	<b>NA</b>

## **JUDGMENT**

- 1.** The informant, Ratna Ghosh filed an ejahar on 09.05.2019 against the accused Jintu Ghosh alleging that on 08.05.2019 at around 3 pm at Panchmile he kidnapped the daughter of the informant aged 14 years from her lawful guardianship. The ejahar was registered as Tezpur P.S. Case No.774/2019 under section 363, IPC. The police after investigation submitted charge sheet against the accused Jintu Ghosh under section 363, IPC.
- 2.** Cognizance was accordingly taken.
- 3.** Copies were furnished to the accused persons on their appearance as per section 207 CrPC. The charge u/S 363, IPC was read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
- 4.** The prosecution examined the informant in support of its case. The statements of the accused under section 313, CrPC were dispensed with due to the lack of incriminating materials against him. Defence, however, declined to adduce evidence.
- 5.** I have heard both the learned Assistant P.P. and the learned counsel for the accused person.

### **POINT FOR DETERMINATION**

- a. Whether the accused on 08.05.2015 at around 3 pm at Panchmile kidnapped the daughter of the informant aged 14 years from her lawful guardianship and that he thereby committed an offence punishable u/s 363, IPC?

## **DISCUSSION, DECISION AND REASONS THEREOF**

6. In the course of the evidence adduced by the prosecution, it emerged that the informant, who was examined as PW-1 proved her ejahar as Exhibit P-1 and her signature as Exhibit P-1(i). PW-1 deposed that on the date of the incident her daughter, Tania Ghosh had gone straight to her friend's house after tuition. PW-1 deposed that she filed the ejahar against the accused under a misunderstanding that the accused might have induced her daughter to elope with him. She deposed that he has reconciled with the accused person and does not want to prosecute him further. During cross examination, PW-1 also deposed that she has no objection if the accused is acquitted in the case. PW-2, Tania Ghosh deposed that on the date of the incident she had gone straight to her friend's house after tuitions without informing her mother and hence her mother lodged the ejahar against the accused out of misunderstanding and suspicion. During cross examination she stated that she has no objection if the accused is acquitted in the case. Thus, from the evidence of the prosecution witnesses, it appears that no incriminating materials are available against the accused. No offence has therefore been made out against the accused under any section of law.
7. Since the informant and the victim have not incriminated the accused, the case of the prosecution has fallen flat on its face. Hence, the point for determination is decided in the negative.

**8.** Considering the above, I come to the safe conclusion that, the prosecution has failed to prove the charges under section 363, IPC against the accused. Accordingly, the accused is found not guilty of the offence charged with and is acquitted.

**ORDER**

**9.** The accused Jintu Ghosh is acquitted of the offence charged with and are set at liberty forthwith. The bail bond furnished by the surety is extended for a period of six months.

**10.** Given under my hand & seal of this Court and delivered in the open Court on this 16<sup>th</sup> day of November, 2022.

Typed by me:

Manashi Neog  
JMFC, Sonitpur

## **APPENDIX**

### **LIST OF WITNESSES**

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Ratna Ghosh	Informant
PW-2	Tania Ghosh	Victim

B. Defence Witness, if any: NONE

C. Court Witness, if any: NONE

### **LIST OF EXHIBITS**

A. Prosecution Exhibits :

Sr. No.	Exhibit Number	Description
1	Exhibit P-1	Ejhar

B. Defence Exhibits: NONE

C. Court Exhibits: NONE

D. Material Exhibits: NONE

Manashi Neog  
JMFC, Sonitpur