

IN THE COURT OF ASSISTANT SESSIONS JUDGE, SONITPUR, TEZPUR.

SESSIONS CASE NO.23/2021

(GR CASE NO.355/2018)

State of Assam.

-vs-

Md. Saiful Islam.

..... Accused.

U/S: 366 (A) of I.P.C.

Present:

Nabajit Bhatta. AJS. MA, LL.B.

Assistant Sessions Judge, Sonitpur at Tezpur.

20th day of January 2022

Smt. R. Rahman : Advocate for State.

Smt. S. Begum : Advocate for Accused.

Date of Hearing : 30-10-2021 & 20-01-2022

Date of Argument : 20-01-2022

Date of Judgment : 20-01-2022

JUDGMENT

1. Prosecution story in brief is as follows that on 10-09-2018 the complainant Md. Akkas Ali lodged an FIR before the O/C of Thelamara Police Station to the effect that on 10-09-2018 at about 4 a.m. his minor daughter Must. Ajima Khatun, aged 16 years, was kidnapped by accused Md. Saiful Islam and Md. Jakir Hussain. Hence, the case.
2. The instant case was registered u/s 366/34 IPC and police investigated the same. After completion of investigation, police submitted charge-sheet u/s 366 (A) of IPC against the accused Md. Saiful Islam.

3. That the Ld. Addl. Chief Judicial Magistrate, Sonitpur, Tezpur took cognizance of the offence and on appearance of the accused person copies of relevant documents were furnished to him and the case was committed to the Hon'ble Court of Sessions as the case was exclusively triable by the Hon'ble court of Sessions. After the case has been transferred to this court, charge u/s 366 (A) of IPC has been framed against the accused Md. Saiful Islam and the said charge read over to the accused person to which he pleaded not guilty and claimed to be tried.
4. Prosecution in order to prove the case has examined two witnesses including the complainant and the victim. Defence plea was total denial. Defence has adduced no evidence. Statement of the accused is recorded u/s 313 Cr.P.C.

5. **Point for Determination:-**

Whether on 10-09-2018 at about 4 a.m., the accused Md. Saiful Islam forcefully kidnapped the minor girl (victim) Must. Ajima Khatun, aged below 16 years, with the intent that the said victim may be or knowing that it is likely that she will be forced (or seduced) to illicit intercourse with another person therefore committed an offence U/S 366 (A) of the Indian Penal Code?

6. Heard argument from the learned counsel of the accused. On perusal of the evidence on record and case diary, the very findings are as follows :

DISCUSSION, DECISION AND REASONS THEREOF

7. Prosecution opening the account of examining the witnesses, first brought the informant Md. Akkas Ali as PW-1. PW-1 has deposed that he is the complainant of this case. The incident occurred about 3 / 3 ½ years ago. Victim Miss Ajima Khatun is his daughter. There was a love affairs between his daughter Ajima Khatun and the accused. His daughter eloped with the accused with her own will. Due to misunderstanding, he lodged the ejahar against the accused. Later on, his daughter was recovered. At present, his daughter Ajima Khatun is living at his house. Ext.1 is the ejahar and Ext.1(1) is his signature.
8. In cross-examination, PW-1 has deposed that he has no objection if the accused is acquitted from this case.
9. PW-2: Must. Ajima Kathun has deposed that complainant is her father. She knows the accused person. The incident took place about four years ago. There was a love affairs between her and the accused person. She eloped with the accused with her own will. Due to misunderstanding, her father lodged the ejahar against the accused person. At present, she has no grievances against the accused. Police took her to the Magistrate to record her statement. Ext.2 is the 164 CrPC statement and Ext.2(1) and 2(2) are her signatures.

10. In cross-examination, PW-2 has stated that at present she has been living at her parental house and she has no objection if the accused is released from this case.
11. From the above discussions no incriminatory materials are found against the accused person. Thus keeping view of what has been discussed above this court has no least hesitation that the prosecution has failed miserably to establish the guilt of the accused person U/S: 366 (A) I.P.C. Hence, the accused person is not found guilty.

ORDER.

Accused person namely Md. Saiful Islam is acquitted from the Charge U/S: 366 (A) of I.P.C. and set at liberty forthwith.

Bail-bond of the accused person is extended for six months.

Given under my hand and seal of this court on the 20th Day of January, 2022.

Nabajit Bhatta.
Assistant Sessions Judge
Sonitpur, Tezpur.

APPENDIX.1. PROSECUTION WITNESSES:

PW-1 : Md. Akkas Ali, informant

PW-2 : Must. Ajima Khatun, victim

2. PROSECUTION EXHIBITS :-

Ext-1: FIR

Ext-1 (1): signature of the complainant

Ext-2: Statement u/s 164 CrPC

Ext-2 (1) & 2(2): signatures of the victim

3. DEFENCE EXHIBITS :- Nil4. MATERIAL EXHIBITS :- NilAssistant Sessions Judge
Sonitpur : Tezpur