

**IN THE COURT OF THE ADDITIONAL SESSIONS  
JUDGE, SONITPUR AT TEZPUR**

PRESENT : Smt. M.R. Sharma  
Additional Sessions Judge  
Sonitpur, Tezpur

**SESSIONS CASE NO. 387 OF 2012**

Under Section 366 (A) of the Indian Penal Code  
(Arising out of G.R. Case No. 2305 of 2012)

State of Assam

-Versus-

Sri Deepak Kalita  
Son of Sri Digen Kalita  
Resident of Vill. Milanpur Pathar  
P.S. - Tezpur, Dist - Sonitpur.

[Committed by Sri K.K. Pathak, Judicial Magistrate, 1st  
class, Tezpur]

**A P P E A R A N C E**

For the State : Sri H. Serai,  
Additional Public Prosecutor  
Sonitpur District, Tezpur

For the Accused : Sri S. Mishra, Advocate

Date of evidence : 29-07-2013

Date of Argument : 29-07-2013

Date of Judgment : **29-07-2013**

*Milama*  
*29/7/13*  
Addl Sessions Judge  
Sonitpur, Tezpur

## J U D G M E N T

The relevant facts leading to the prosecution case, in brief, may be summarized as follows :-

That the informant Smt. Mamon Baruah lodged an ejahar with the In-Charge, Salonibari Police Out Post, on the allegation that on 17-09-2012 at about 7-20 p.m. her minor daughter Smt. Joonmoni Baruah, aged about 16 years, was missing from her house and she suspected to have kidnapped her daughter by Sri Deepak Kalita. Hence, this case.

2. On receipt of the ejahar, the In-Charge, Salonibari O.P. Sri D. Kalita made GD Entry No. 362 dated 18-09-2012 and in the meantime he took up investigation of the case and the case was forwarded to the Officer-In-Charge, Tezpur Police Station for registering a case. The O.C., Tezpur Police Station registered Tezpur P.S. Case No. 1342 of 2012 under Section 366 (A) of the Indian Penal Code.

3. Accordingly, the Investigating Officer visited the place of occurrence, recorded the statements of the witnesses, prepared the sketch map of the place of occurrence and sent the victim girl to the Court for recording her statement as per provision of Section 164 Cr.P.C. The Investigating Officer also forwarded the victim girl for medical examination. He also arrested the accused person. On completion of investigation, charge sheet was submitted against the accused person Sri Deepak Kalita under Section 366 (A) of the Indian Penal Code.

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29/7/12  
Addl. Sessions Judge  
Sonitpur, Tezpur*

4. On appearance of the accused person in the Court of the learned Judicial Magistrate, copies of police papers were furnished to him and as the offence under Section 366 (A) of the Indian Penal Code was exclusively triable by the Court of Sessions, the case was committed to the Court of Hon'ble Sessions Judge and thereafter transferred to this Court for trial.

5. On appearance of the accused in this Court, charge under Sections 366 (A) of the Indian Penal Code was framed against the accused, after hearing the learned Additional Public Prosecutor and the learned defence counsel and on perusal of the materials on record. The accused person pleaded not guilty when the charge was read over and explained to him and he claimed to face the trial.

6. To bring home the charge framed against the accused person, prosecution examined the following witnesses :-

PW-1 - Mamon Maruah, Informant and mother of the victim.

PW-2 - Smt. Joonmoni Baruah (Victim)

The prosecution has also exhibited the following documents :-

Ext - 1 is the Ejahar

Ext - 2 is the statement of the victim girl.

The prosecution evidence was closed as per verbal prayer of the learned Additional Public Prosecutor. As

*Milama*  
27.7.13  
Addl Sessions Judge  
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no incriminating evidence against the accused person, examination of accused u/s 313 Cr.P.C. was also dispensed with

7. Now, the evidence on record is required to be analyzed to arrive at the decision.

PW-1, Smt. Mamoni Baruah, the mother of the victim, deposed that on the date of the incident, at about 7-30 pm. Accused Deepak Kalita came and called her daughter and both of them went to the house of the accused. She also deposed that on the next day, the mother of the accused brought her daughter back to her house. She further deposed that on the same day of the incident, i.e. on 17-09-2012 she filed the ejahar. Ext - 1 is the ejahar. Ext -1 (1) is her signature. She also deposed that at the time of occurrence, her daughter was 16 years old. In cross-examination this witness admitted that out of some misunderstanding she filed the ejahar. She has no allegation against the accused.

PW-2, the victim girl, in her evidence stated that at about 8 p.m. the accused took her to one of his friend's house but on the next day morning, the mother of the accused brought her back to her house. She also deposed that on the day of the incident, in the meantime, her mother had filed this case. She further deposed that she was brought to the Doctor for medical examination and also her statement was recorded by a Judicial Magistrate. Ext - 2 is the statement of the victim and Exts - 2(1) and 2(2) are her signatures.

*M. Laxmi*  
29.7.13  
Addl Sessions Judge  
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8. On a close analysis of the entire evidence on record, it is crystal clear that the accused did not kidnap the victim as he took her to one of his friend's house and on the next day morning, the mother of the accused brought her back to her house. Only taking her to one of friend's house of the accused is not sufficient to constitute an offence under Section 366 (A) of the IPC. There is nothing in her evidence that the accused kidnapped the victim girl with intent that she might be forced to illicit intercourse with him or might force to marry him against her will.

9. The prosecution has totally therefore failed to prove the case u/s 366 (A) of the Indian Penal Code against the accused and hence, the accused Sri Deepak Kalita is **acquitted** from the charge of this case and he is set at liberty forthwith.

The bail bond of the accused stands discharged.

Judgment is given under my hand and seal of this Court on this **29th day of July, 2013**.

*M Sharma*

(M.R. SHARMA)  
ADDITIONAL SESSIONS JUDGE  
SONITPUR : TEZPUR

Dictated and corrected by me  
and every page bears my signature.

*M Sharma*

(M.R. SHARMA)  
ADDITIONAL SESSIONS JUDGE  
SONITPUR : TEZPUR

Transcribed & Typed on dictation by me

*[Signature]*  
(I. Goswami)  
29/7/13  
Stenographer