

Sessions Case No. 155/2022

ORDER

07-12-2022

Accused persons namely, Kasem Ali, Asad Ali, Rejek Ali & Basani Nessa are present.

I have heard argument of learned lawyers appearing for both sides on the point of framing charge.

Learned counsel for the State submits that there is a prima facie case for framing charges against the accused persons.

However learned counsel for the accused persons vehemently disputed the submission of the learned PP contending inter alia that there is absolutely no material for framing charges against any of the accused. The case has been filed with oblique motive to harass the family members of accused persons and so far multiple cases have been filed against the accused persons for no good reasons.

It is contended that the daughter of the informant being in love eloped with accused Asad Ali and she voluntarily went with accused and stayed with him thereafter the parents take her back and conducted a village meeting and take some unreasoned decisions and thereafter the daughter of informant again eloped with accused, stayed with him for three months and now she became pregnant. After filing this case, the informant side filed another case in the court of Magistrate seeking maintenance from the accused Asad Ali and others thereby contradicting their own claim by filing different litigations against the present accused persons in different courts putting forth different stories.

Having heard the contentions of the learned lawyers appearing for both sides and on careful examination of the entire materials before this court, particularly the statement of the alleged victim girl and other witnesses examined by Magistrate in the course of the enquiry, this court has found force in the contention of the learned counsel appearing for the accused persons, particularly, going by the statement of the alleged victim, it is crystal clear that even though there is allegation of kidnapping but the way she stayed with accused twice shows that she voluntarily went with accused and had physical relation with him which is nothing but adolescence romance. The girl is in border area of the age of 17 & 18

years and whatever she did appears to have with her full knowledge and understanding and she indulge such act knowing the consequence very well. Unless, she is willing, it is not possible for the accused to kidnap her from her house twice as she could have raised alarm to such illegal act of accused if she had really been kidnapped by accused from her house. Therefore, the voluntariness of the girl is prima facie is writ large in the instant case.

It is also apparent that except the allegations against accused Asad Ali, the allegations against other accused persons are general and sweeping in nature. No case of kidnapping has been made out against them even against accused Asad Ali as the voluntariness of the girl is writ large.

Therefore, after careful and dispassionate reading of all the materials on record, it transpires that the complainant side confused and complicated the matter by labeling some contradictory allegations of kidnapping on the other hand, they filed cases against accused being C.R. Case No. 792/2022 in the same court claiming maintenance which is an admission of fact of marriage and the girl in her statement clearly stated that she has been married with accused.

In the above backdrop of the case, this court do not find any substance/ prima facie materials for framing charges u/s 344/366(A)/406/493/506/34 IPC against the accused persons.

It is to be noted that the criminal process of the court cannot be used for achieving mischievous object which is fundamentally meant for advancing the cause of justice not to cause harassment to others in the garb of law.

In the result, all the accused are discharged from the aforesaid offences forthwith.

Let the case record of C.R. Case No. 74/2021 of the court of learned JMFC, Tezpur, Sonitpur along with a copy of this order be send back forthwith.

The case is accordingly disposed of.

Sessions Judge,
Sonitpur, Tezpur.