

IN THE COURT OF THE SESSIONS JUDGE :: :: :: TINSUKIA

District: Tinsukia

Present: **Sri P.J. Saikia,**
Sessions Judge,
Tinsukia

Sessions Case No. 17 (T) of 2019

U/s 376 of IPC.

The State of Assam Complainant.

-Versus -

Sri Prasujya Konwar @ Pupul

S/o- Sri Indra Konwar

R/o- Kailashpur Tiniali Nagaon

P.S- Bordumsa

District- Tinsukia, Assam Accused.

Appearance:

Sri A.K. Choubey,

Public Prosecutor For the State

Brijesh Mishra,

Advocate For the accused.

Date of Argument: 24/05/2019

Date of Judgment: 24/05/2019

J U D G M E N T

1. The case against the accused Prasujya Konwar @ Pupul was committed for trial by the Ld. Judicial Magistrate First Class, Tinsukia on 15/02/2019.

PROSECUTION CASE

2. The 21 years old victim was earlier married to a person, but two years prior to the occurrence, they were separated. She has a four years old son. After that the victim girl started to maintain relationship with the accused. It may be stated that the accused is a divorced person and he also has a son. On 03/05/2018, the accused came to the house of the victim girl and proposed her that he would marry her. Thereafter, the accused forcibly took the victim girl away from her house at a time, when her parents were absent in the house. The accused took the victim girl to Kakopathar, where in a house the accused raped the victim. While the victim and the accused were inside a room of the house, some relatives of the accused arrived there, but the accused did not open the door. After some time, the accused fled from the room, leaving behind the victim girl. In the mean time, the aforesaid relatives of the accused managed to enter into the room. The relatives of the accused included his wife, sister, father and

brother in law. All the aforesaid relatives of the accused beat the victim. At that moment, the victim came to know that the accused was still married to his wife. The victim also came to know that the accused lied before her, that he had divorced his wife. It is further alleged that at the time of the aforesaid incident, the aforesaid family members of the accused disrobed her and took her nude photographs and dished out threatenings to her that if she went to the P.S to make any complaint, her nude photographs will be published in social media.

3. The mother of the victim girl had lodged an ejarah before police.

4. On conclusion of investigation, police filed the charge sheet against the accused u/s 366 and 376 of the Indian Penal Code. However, this court framed the charge u/s 376 of IPC only against the accused.

POINT FOR DETERMINATION

5. The only point for determination in this trial, is as to whether the accused had committed rape upon the prosecutrix?

DECISION AND REASONS THEREOF

6. In order to prove the case against the accused person, the prosecution side has examined the victim girl and her mother, the informant only. The defence plea is total denial. I have carefully gone through the prosecution evidences.

7. Considering the nature of the case, I shall take up the evidence of the prosecutrix first. The victim girl has stated in her evidence that she did not know that the accused was

already married and as a son also. She has stated that she went with the accused in order to marry him and when she reached his house, then only she came to know that the accused was already married. According to the victim girl, the family members of the accused had quarreled with her when she had gone with the accused and the elder sister of the accused had even beaten her, for which she became senseless. The victim further disclosed that after the said incident, the accused brought her back to her house and thereafter her mother had lodged an ejarah before police.

8. During cross examination, the victim girl stated that in the year 2015, she married a person and without having a decree of divorce, she has been living separately from him. The victim girl has admitted that her relationship with the present accused is based on love.

9. The mother of the victim girl is the informant in this case. She has stated in her evidence that one day, the mother of the accused had called her over phone and told her that her son had brought the victim to their house. After some time, the mother of the victim girl came to know that her daughter had left the house of the accused. According to the mother of the victim, she later on found her daughter in an unconscious state in the concrete room of their house.

10. The mother of the victim has admitted that her daughter was in love with the accused.

11. The meaning of the word "rape" as defined under section 375 of the IPC is that, whenever a has sexual intercourse with a woman against her will or without her consent, its is held that the said man had committed rape

upon the woman. In this case, in the evidence of the victim girl, never stated that the accused had forcible sexual intercourse with her. She has admitted that she had gone with the accused to marry him, as because she was in love with the accused.

12. Thus, I have reasons to hold that the evidence of the victim girl failed to inspire confidence to the effect that on the day of occurrence, the accused had committed rape upon the victim girl. Under the circumstances, the offence u/s 376 of the Indian Penal Code is not proved against the accused beyond all reasonable doubts.

ORDER

13. In the result, the accused Sri Prasujya Konwar @ Pupul is found not guilty and accordingly the accused is acquitted from this case.

Given under my hand and seal of this Court on this
24th day of May, 2019.

(P.J. Saikia)

Sessions Judge

Tinsukia

Dictated & corrected by me.

Sessions Judge

Tinsukia

A P P E N D I X

PROSECUTION WITNESSES

1. PW1 - Smti Junmoni Dihingia
2. PW2 - Smti Monisha Dihingia

PROSECUTION EXHIBITS

1. Ext.1- Ejahar
2. Ext. 2- Statement of victim u/s 164 Cr.PC

DEFENCE WITNESS

None.

Sessions Judge
Tinsukia