

HEADING OF JUDGMENT IN SESSIONS CASE

DISTRICT:- TINSUKIA

IN THE COURT OF ASSISTANT SESSIONS JUDGE,
TINSUKIA, ASSAM

Sessions Case No. 16(T) of 2019

U/s. 366 I.P.C.

THE STATE OF ASSAM

V.

Munin Saikia @ Papu

... Accused/UTP.



Present:- Anup Khanal, AJS
Asstt. Sessions Judge,
Tinsukia, Assam.

For the Prosecution : Smt. J. Phukan, Learned Additional P.P.

For the Defence : Mr. S. Chetia, Learned Advocate.

Evidences Recorded on : 09.05.2019.

Arguments Heard on : 09.05.2019.

Judgment Delivered on : 09.05.2019.

9/5/19
Asstt. Sessions Judge
TINSUKIA

J U D G M E N T

1. The prosecution case in brief is that on 12.01.2018 at about 7:00 P.M. one Smt. Nitumoni Hazarika lodged an 'ejahar' before the Officer-in-Charge, Tinsukia Police Station alleging inter-alia that on that day at around 11:00 A.M. her daughter Smt. Deepsikha Hazarika, aged about 17 years left for school to bring her certificate but is now missing.

2. That on receipt of the 'ejahar' at the P.S., it was registered as Tinsukia P.S. Case No.43/2018 dated 12.01.2018 U/s. 366-A I.P.C. (being G.R. Case No. 75/2018) and after completion of investigation charge-sheet was submitted against the accused vide C.S. No. 124/2018 dated 31.03.2018 U/s.366-A IPC.

3. That after submission of the charge-sheet, the learned C.J.M., Tinsukia vide order dated 26.09.2018 took cognizance U/s. 366 I.P.C. and summons were issued to the accused and on his appearance was allowed to go on bail as the accused was already on pre-arrest bail at the stage of investigation granted by the Hon'ble Sessions Judge, Tinsukia. That vide order dated 30.01.2019, the case was committed by the learned C.J.M., Tinsukia to the Hon'ble Sessions Judge, Tinsukia. That vide order dated 28.02.2019, the Hon'ble Sessions Judge, Tinsukia transferred the case to this Court for disposal.

4. That on receiving the case record, the accused appeared with his bailor and was allowed to remain on previous Court bail. That thereafter, the learned Addl. P.P. described the charge and proposed to prove the guilt of the accused and after hearing both sides on the point of charge and on perusing the case record and the case diary as there existed prima-facie ground for presuming that the accused has committed an offence punishable U/s. 366 I.P.C. a formal charge was framed and the charge was then read over and explained to the accused and he was asked as to whether he pleads guilty, to which he pleaded not guilty and claimed to be tried.

5. That during the course of trial, the prosecution side examined only the informant/mother of the victim girl Smt. Nitumoni Hazarika and the victim girl Smt. Deepsikha Hazarika as P.W.1 and P.W.2, respectively. The prosecution side also marked and exhibited the FIR ('ejahar') as Ext.1 and the signature of the informant therein as Ext.1(1); the U/s.164 CrPC Statement of the victim girl as Ext.2 and her signature therein as Ext.2(1). The accused was generally examined

(Contd...)



9/1/19
Asstt. Sessions Judge
TINSUKIA

U/s. 313 Cr.P.C. as no incriminating/implicating materials were brought on record by the prosecution side and he has made total denial as regard the alleged crime.

6. Points for Determination:-

(i) Whether on 12.01.2018 at around 11:00 A.M., on the way from Borguri Bajaltoli to Sarbajanin H.S. School, under the Tinsukia P.S. the accused kidnapped or abducted the victim girl Smt. Deepsikha Hazarika, aged about 17 years, with intent that she may be compelled or knowing it to be likely that she may be compelled to marry him against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse by him, and thereby committed an offence punishable U/s. 366 I.P.C.?

Discussion, Decision and Reasons thereof:-

7. Now having heard arguments of both sides, my discussion, decision and reasons on the points for determination is as follows:-

8. The informant as P.W.1 testified to the effect that in the month of January, 2018 her daughter i.e. victim girl went missing without informing her and as she could not trace out her daughter, she lodged the 'ejahar'. She further testified and asserted that she later on came to know that her daughter willingly eloped with the accused and got married with the accused and are residing together as husband and wife and as such, she has no allegation against the accused i.e., her son-in-law and has no objection, if he is acquitted.

9. The victim girl as P.W.2 also testified to the effect that on the day of incident she willingly eloped with the accused and got married with him but as she did not inform her mother (informant), finding her missing her mother lodged the 'ejahar' and thereafter, the police brought her to the Court and got recorded her statement U/s.164 of CrPC and in her statement before the Magistrate, she has stated about eloping with the accused and getting married with him. She further in corroboration with the testimony of her mother (P.W.1) testified and asserted that the accused i.e. her husband has not done any crime and she has no allegation against the accused and has no objection if he is acquitted.

10. Thus from the testimonies of the said P.W.'s it is quite evident that the victim girl (P.W.2) eloped with the accused voluntarily and as she could not be traced out by her mother, the 'ejahar' was lodged.



9/1/19
Asst. Sessions Judge
TINSUKIA

(Contd...)

11. Furthermore, from the testimonies of the said P.W.'s, who are the most vital and important witnesses of the prosecution side, nothing was elucidated to show that the victim girl was in any way forcefully or deceitfully induced by the accused when she eloped with him. Moreover, the prosecution side also failed to prove the intent of the accused as is required to prove the charge U/s. 366 I.P.C. rather from the testimonies of the P.W.'s it is found to be proved contrary to the prosecution story that the victim girl eloped willingly and got married with the accused.

12. Thus from the above discussions, it is found that the prosecution side failed to explicate any iota of evidence to prove the charged crime against the accused.

ORDER

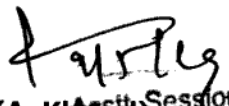
13. Hence, considering the above discussion, decision and reason thereof and as the prosecution side could not bring on record any iota of evidence to prove that the charged offence punishable U/s. 366 IPC was committed by the accused, he is found not guilty and is thus acquitted from the case.

14. His bail-bonds stands extended till the next six months and shall stand cancelled after expiry of the said period.


15. Pronounced and delivered by me on this open Court, this 09th day of May, 2019 (Thursday) under my hand and seal of this Court.

Dictated and corrected by me:-


(A. Khan) Asst. Sessions Judge
Assistant Sessions Judge, TINSUKIA


(A. Khan) Sessions Judge
Assistant Sessions Judge, TINSUKIA

Typed by :-


(Kalyan Dey)
Stenographer

(Contd...)

APPENDIX**A. Prosecution Witnesses:-**

P.W.1- Smt. Nitumoni Hazarika (Informant/mother of the victim girl); and

P.W.2- Miss Deepsikha Hazarika (Victim Girl).

B. Defence Witnesses:-

NIL.

C. Prosecution Exhibits:

Ext.-1 : 'Ejahaar' (F.I.R.);

Ext.1(1) : Signature of the informant in the 'ejahaar'.

Ext.-2 : Statement of the victim girl recorded U/s.164 of CrPC; and


Ext.-2(1) : Signature of the victim girl in the statement.

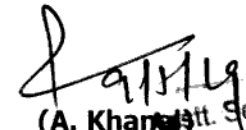
D. Defence Exhibits:-

NIL.




Dictated and corrected by me:-


(A. Khanal) Asstt. Sessions Judge
Assistant Sessions Judge, Tinsukia


(A. Khanal) Asstt. Sessions Judge
Assistant Sessions Judge, Tinsukia

Typed by :-


(Kalyan Dey)
Stenographer