

**IN THE COURT OF ASSISTANT SESSIONS JUDGE,**  
**TINSUKIA, ASSAM**

**Present:-** Ms. Leena Doley, AJS,  
Assistant Sessions Judge,  
Tinsukia, Assam.

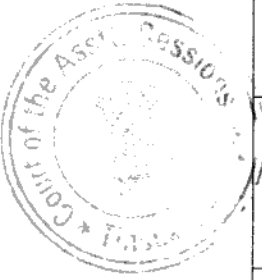
**(Date of Judgment:- 10.05.2022)**

(Case No. : Sessions Case No. 64 (T) of 2021)

FIR No. : 98/2019      Dated-23.04.2019

U/S 366 of IPC

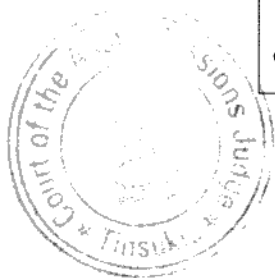
Bordubi P.S. Case No.98/2019



COMPLAINANT:-	STATE OF ASSAM
REPRESENTED BY:-	Mr. B. J. Kakoti, Learned Additional P.P.
ACCUSED:-	<b>Md. Sultan Hussain,</b> Son of Md. Shakir Hussain, Resident of Greenwood T.E. Nagajuli, P.S.- Lahowal, District- Dibrugarh, Assam.
REPRESENTED BY:-	Smt. D. Gogoi, Learned Defence Counsel

10/05/22  
Asst. Sessions Judge  
TINSUKIA

Date of Offence:-	22.04.2019
Date of filing of FIR:-	23.04.2019
Date of Charge Sheet:-	31.05.2019
Date of Framing of Charges:-	20.11.2021
Date of commencement of evidence:-	26.04.2022
Date of which Judgment is reserved:-	26.04.2022
Date of Judgment:-	10.05.2022
Date of Sentencing Order, if any:-	NIL



### **Accused Details:**

Rank of the Accused	Name of Accused	Date of Arrest	Date Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention undergone during Trial for purpose of Section 428 Cr.P.C.
1.	Md. Sultan Hussain	26.04.2019	20.11.2021	366	Acquitted	NIL	NIL

10/05/22  
Asst. Sessions Judge  
TINSUKIA

**APPENDIX**  
**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES**

**A. Prosecution:**

RANK	NAME	NATURE OF EVIDENCE
PW-1	Sri Ram Lal Tanti @ Rama Tanti	Complainant
PW-2	Smti Suntali Tanti	Victim

**B. Defence Witnesses, if any:**

RANK	NAME	NATURE OF EVIDENCE
NIL		

**C. Court Witnesses, if any:**

RANK	NAME	NATURE OF EVIDENCE
NIL		

**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**

**A. Prosecution:**

Sr. No.	Exhibit Number	Description
1.	Ext.P-1/P.W.1	Ejhar

**B. Defence:**

Sr. No.	Exhibit Number	Description
NIL		

**C. Court Exhibits:**

Sr. No.	Exhibit Number	Description
NIL		

**D. Material Objects:**

Sr. No.	Exhibit Number	Description
NIL		

10/05/22  
(Leena Doley, AJS)

Assistant Sessions Judge,

Tinsukia

Asstt. Sessions Judge  
TINSUKIA



**Before: Ms. Leena Doley, AJS**

**J U D G M E N T**

1. The prosecution case in brief is that on 22.04.2019 one Sri Rama Tanti lodged an 'ejahar' in Bordubi Police Station alleging inter-alia that one Sunil Tanti's daughter Smt. Suntali Tanti, aged around 22 years hailing from Deohal T.E., Tinsukia was kidnapped by Md. Sultan Hussain, married, a resident of Greenwood T.E., Line No.14, Police Station- Mohanbari, Dibrugarh.

2. On receipt of the ejahar, the Officer-in-Charge of Bordubi P.S. registered a case as Bordubi P.S. Case No.98/2019 U/S 366 of the Indian Penal Code against the accused person Md. Sultan Hussain as named in the ejahar and conducted the investigation. On completion of the investigation, the I.O. submitted charge-sheet against the said accused u/s.366 of the Indian Penal Code.

3. The accused was produced from judicial custody before the Court of Chief Judicial Magistrate, Tinsukia and after furnishing copies to the accused U/S 207 of Code of Criminal Procedure, the case was committed to the Court of Sessions Judge, vide Order dated 16.11.2021 in P.R.C. Case No.435/2019, U/S 366 IPC. The Hon'ble Sessions Judge, Tinsukia after receipt of the case record from the learned Chief Judicial Magistrate, Tinsukia, transferred this case to this Court for trial on 18-11-2021.



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4. The accused was produced from Judicial custody on 20.11.2021 and he was allowed to go on bail of Rs.15,000/- with a local surety of like amount.

5. The prosecution has examined two witnesses. The examination of the accused U/S 313 of Code of Criminal Procedure was dispensed with as there is no incriminating evidence against the accused.

6. I have heard arguments advanced by learned Addl. P.P. and learned defence counsel and after considering all, I have framed the following points for determination.

**7. POINT FOR DETERMINATION:-**

Whether on 22.04.2019, the accused kidnapped or abducted the victim girl namely, Smt. Suntali Tanti with intent or knowing that it is likely that she will be forced or seduced to illicit intercourse with the accused or any other person and thereby the accused committed an offence punishable U/S 366 of the Indian Penal Code?

If yes, what punishment does the accused deserve?

**8. DECISIONS THEREON AND THE REASONS FOR THE DECISION:-**

Now, let us discuss the points in the light of the evidences available with the case record.

(i) P.W.1 is the informant in this case and has deposed in his evidence that the victim girl is his adopted daughter and is the real daughter of his elder brother Late Sunil Tanti. He has deposed that the incident of this instant



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case took place in the month of April, 2019. He has further deposed that the victim left his residence without giving information and he unable to find the victim, lodged an Ejahar in Bordubi police station and has proved Ext.P-1/P.W.1 as the Ejahar and Ext.P-1(1)/P.W.1 as his signature. P.W.1 has further deposed that the victim was recovered by police after 4-5 days of the incident and was handed over to him, who later admitted that she was in love with the accused person and on her own free will voluntarily eloped with the accused. P.W.1 also stated that after 1-2 months of return of the victim, he again handed over the victim to the accused and asked them to get married and since then, both the victim and the accused married each other and have been living together peacefully and amicably as husband and wife. P.W.1 in his cross-examination has admitted that he has no objection, if the accused is acquitted in this case.

(ii) P.W.2 is the victim in this case and has deposed that the incident took place some three years ago and that as she was in love with the accused, she voluntarily eloped with the accused. She has further deposed that her uncle (P.W.1) unable to find her lodged an Ejahar in the Police Station. She has also deposed that after about three months, she informed her uncle over phone about the accused and her marriage with the accused and also informed that she eloped with the accused on her own free will. She has also deposed that later her uncle accepted her



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marriage and relationship with the accused. She has further deposed that she has been living together with the accused peacefully and amicably as husband and wife since then. The cross-examination of P.W.2 was declined by the accused.

(iii) The prosecution did not adduce further evidence other than P.W.1 and P.W.2 and from a bare reading of their testimonies, it is evident that the prosecution witnesses have failed to support the prosecution case. P.W.2 being the victim herself and a major by age did not incriminate the accused of kidnapping or abducting her by using force or inducement and on the contrary has admitted that she voluntarily on her free will eloped with the accused.

(iv) Since the two basic ingredients of applying force or seducement upon the victim to illicit intercourse is absent in this case, and the accused had the intention and knowledge to marry the victim, for which the victim and the accused both willingly eloped, in my opinion, the prosecution side has failed to prove the charge U/S 366 IPC against the accused beyond all reasonable doubt and therefore the point is decided in the negative.

### **ORDER**

9. In the result from the facts and circumstances of the case and evidences on record, this Court is of the opinion that the prosecution has failed in proving the charge U/S



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 Bangalore

366 Indian Penal Code against the accused beyond all reasonable doubt and hence, the accused is acquitted and is set at liberty forthwith and his bail bond is extended to another six months.

**11.** The Judgment is pronounced and delivered in the open Court, written in separate sheets of paper and tagged with the case record on this 10<sup>th</sup> of May, 2022 in Tinsukia under my hand and the seal of this Court.



*L.D.*  
10/05/22  
**(Leena Doley, AJS)**  
Assistant Sessions Judge,  
Tinsukia  
Asstt. Sessions Judge  
TINSUKIA

Dictated and corrected by me:-

*L.D.*  
10/05/22  
**(Leena Doley, AJS)**  
Assistant Sessions Judge,  
Tinsukia  
Asstt. Sessions Judge  
TINSUKIA



**Annexure****Witnesses:**

PW-1 : Sri Ram Lal Tanti @ Rama Tanti

PW-2 : Smti Suntali Tanti

**Exhibits:**

Ext.P-1/P.W.1: Ejahar



*LD*  
10/05/22

**(Leena Doley, AJS)**  
Assistant Sessions Judge,  
Tinsukia Sessions Judge  
TINSUKIA