

IN THE COURT OF ASSISTANT SESSIONS JUDGE,
TINSUKIA, ASSAM

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

(Date of Judgment:- 13.05.2022)

(Case No. : Sessions Case No. 95 (T) of 2019)

FIR No. : 1641/2018 Dated-13.02.2018

U/S 376 of IPC

Tinsukia P.S. Case No.1641/2018



| | |
|------------------|--|
| COMPLAINANT:- | STATE OF ASSAM |
| REPRESENTED BY:- | Mr. B. J. Kakoti, Learned Additional P.P. |
| ACCUSED:- | Rajkumar @ Pichubabu, Son of Sri Tulan Kumar, Resident of Limbuguri T.E., Purana Line, P.S. & District- Tinsukia, Assam. |
| REPRESENTED BY:- | Mr. Munna Kr. Singh, Learned Defence Counsel. |

LL
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| | |
|--------------------------------------|---------------------------|
| Date of Offence:- | 2017 |
| Date of filing of FIR:- | 13.12.2018 |
| Date of Charge Sheet:- | 31.05.2019 |
| Date of Framing of Charges:- | 21.01.2020 |
| Date of commencement of evidence:- | 09.12.2021 and 29.04.2022 |
| Date of which Judgment is reserved:- | 13.05.2022 |
| Date of Judgment:- | 13.05.2022 |
| 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. | Rajkumar @ Pichubabu | 20.12.2018 | 04.01.2019 | 376 | Acquitted | NIL | NIL |

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APPENDIX
LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

| RANK | NAME | NATURE OF EVIDENCE |
|------|----------------|---------------------|
| PW-1 | Smt. Jina Nag | Complainant/victim |
| PW-2 | Sri Subedh Nag | Independent witness |

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 |
|---------|----------------|-------------|
| NIL | | |

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 | | |



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Before: Ms. Leena Doley, AJS

J U D G M E N T

1. The prosecution case in brief is that the informant (name withheld and henceforth shall be referred as the prosecutrix) lodged an Ejahar in Guijan Police Outpost alleging inter-alia that one Rajkumar @ Pichubabu was having a illicit sexual relationship with the prosecutrix since 2017 and when she was five months pregnant, she informed Rajkumar @ Pichubabu about her pregnancy to which he denied to be the father of unborn child and hence, this case arose.



2. On receipt of the ejahar, the Officer-in-Charge of Tinsukia P.S. registered a case as Tinsukia P.S. Case No.1641/2018 U/S 376, 493 of the Indian Penal Code against the accused person Rajkumar @ Pichubabu 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 376, 493 of the Indian Penal Code.

3. The accused appeared in 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 16.10.2019 in G.R. Case No.2755/2018, U/S 376, 493 IPC. On receipt of the case record, the Hon'ble

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Sessions Court, Tinsukia transferred this case to this Court for trial vide Order dated 08.11.2019.

4. The accused appeared in this Court on 21.01.2020 and was allowed to remain in his previous bail. The charge U/S 376 IPC was framed against the accused and when the charge was read over and explained to the accused, he pleaded not guilty and claimed to stand trial.

5. The prosecution has examined two witnesses. The accused was examined U/S 313 of Code of Criminal Procedure on 13.05.2022 where he has denied the allegations and declined to adduce evidence.

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:-

A. Whether the accused since 2017 on various occasions at different places including Limbuguri T.E., Purana Line, Rangagora under P.S. and District- Tinsukia, Assam committed rape on the informant/victim/prosecutrix by promising to marry her and thereby committed an offence punishable U/S 376 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.



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(i) P.W.1 is the informant cum victim cum prosecutrix in this case and has deposed that the incident occurred in the year 2017 and that she knows the accused person very well. She has deposed that she voluntarily went with the accused as she had a love affair with the accused and whatever happened between her and the accused was with her consent. She has deposed that she did not want to proceed with the case and has no objection if the accused is acquitted. She has further deposed that she filed the Ejahar against the accused out of a misunderstanding and that on the day of incident, she herself voluntarily went with the accused. Cross-examination of P.W.1 was declined.



(ii) P.W.2 is the brother of the prosecutrix and has deposed that he knows the accused since 10 years and that the incident took place in the year 2018. He has further deposed that the accused was responsible for making his sister pregnant which was stated by his sister (prosecutrix) and was found on medical examination. P.W.2 has further testified that when he enquired the accused about the pregnancy of the prosecutrix, the accused denied his involvement and therefore a complaint was filed in a police station by his sister. He has deposed that his sister was brought to the Court and is still unmarried and is working and has a girl child out of the accused who stays with him.

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(iii) P.W.2 in his cross-examination has admitted that his sister has compromised the case and he has no objection against the accused.

(iv) The prosecution did not adduce further evidence other than P.W.1 and P.W.2 and P.W.1 being the victim/prosecutrix is the principal witness in this case. From a bare reading of the testimony of P.W.1, it is evident that she did not allege the accused of committing rape on her and on the contrary has stated that she was in love with the accused and she voluntarily went with the accused and whatever happened between her and the accused was with her own consent. P.W.1 did not utter anything against the accused alleging him of having sexual intercourse with her without her consent or against her will or under any of the circumstances as defined in Section 375 of IPC.

(v) In this instant case, the P.W.1 did not allege the accused of using force against her to take her to any other place or to force himself to have sexual intercourse with her. On the contrary, P.W.1 stated that she has filed the complaint against the accused out of misunderstanding and was not interested in proceeding with this case.

(vi) P.W.2 in his testimony has testified about whatever information he has gathered from his sister i.e. P.W.1 (victim/prosecutrix). He has stated that he came to know about her pregnancy and the child only after the victim has stated those facts to him. Though, it is revealed that the victim/prosecutrix has a girl child as there is no



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incriminating evidence against the accused of having forceful indulgence of sexual intercourse with the victim against her will or consent, the prosecution has failed to prove beyond reasonable doubt that the accused has committed rape upon the victim/prosecutrix and has also failed to prove that the girl child born out of the prosecutrix belonged to the accused for his act of committing rape upon the prosecutrix.

(vii) It is seen that the victim/prosecutrix did not testify that she had a sexual relationship with the accused as averred in the Ejahar which was filed by her. Therefore, considering all the above facts and circumstances and evidences on record, this Court is of the opinion that the prosecution has failed to prove the charge against the accused U/s.376 IPC beyond all reasonable doubt and 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 376 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



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with the case record on this 13th of May, 2022 in Tinsukia
under my hand and the seal of this Court.



D.
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Assistant Sessions Judge,
Tinsukia Asst. Sessions Judge
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Dictated and corrected by me:-

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Assistant Sessions Judge,
Tinsukia Asst. Sessions Judge
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Annexure**Witnesses:**

PW-1 : Smt. Jina Nag

PW-2 : Sri Subedh Nag

Exhibits: NIL

LD.
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Tinsukia
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