

IN THE COURT OF ASSTT. SESSIONS JUDGE :::::::::::NALBARI

Present : Himakshi Thakuria Buragohain.
Asstt. Sessions Judge,
Nalbari.

SESSIONS CASE NO.: 64/18

U/S 366 IPC

STATE OF ASSAM

- VS -

PRANJIT DAS

..... Accused person.

Committed by learned JMFC, Nalbari, vide order dated 04/09/2018 in connection with G.R. Case No. : 1035/17

APPEARANCE :

Advocate for the prosecution : Mr. Mrigen Das, Learned Addl. PP.

Advocate for the defence : Mr. Jayanta Kalita, Ld. Advocate.

Date of Evidence : 26-11-2018.

Date of Argument : 28-11-2018.

Date of Judgment : 28-11-2018.

J U D G M E N T

1. The gist of the prosecution case in brief is that on 04-07-17 one Mrs. Ritu Haloi lodged an ejahar at Kamarkuchi Outpost alleging, inter alia that on 27-06-17 her daughter, Namita Haloi, aged about 17 years 10 months, went missing while going to Sorabori Ambikagiri School to attend class. Thereafter the informant heard that the accused had kidnapped her daughter. Hence this case.

2. On receipt of the ejahar police registered a case as Nalbari PS Case No.448/17 u/s 366 IPC and started investigation. After completion of investigation the I/O submitted charge sheet against the accused 366 IPC. Since the offence u/s 366 IPC is exclusively triable by the Court of Sessions, the Learned Judicial Magistrate First Class, Nalbari, committed this case to the court of Hon'ble Sessions Judge, Nalbari. On receipt of the committal paper and GR Case Record Hon'ble Sessions Judge, Nalbari started Sessions case against the accused and thereafter transferred this case to this court for disposal.

3. After hearing the learned counsels for both sides and on perusal of the case diary, charge was framed against the accused u/s 366 IPC. The charge so framed was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

4. During trial, prosecution side examined two witnesses to prove the charge against the accused. Accused was examined u/s 313 CrPC. The statement of defence is recorded in a separate sheets. The defence case was of complete denial and the defence side has not adduced any defence evidence.

5. **POINTS FOR DETERMINATION**

“Whether the accused on 27/06/2017 at village Karia under Nalbari PS induced Miss Namita Haloi to go from her house or to do any act/ acts with him and that the accused knew it likely that she will be forced or seduced to have illicit intercourse with him ?”

DISCUSSION DECISION AND REASONS THEREOF

6. I have heard learned counsel of both the parties and gone through the evidence on record. Learned counsel for the prosecution has submitted that all the witnesses have supported the prosecution story and this is a fit case to convict the accused u/s 366 IPC.

7. On the other hand learned defence counsel has submitted that prosecution has failed to prove the case. There are discrepancies in the evidence adduced before the court and the statements of the witnesses recorded u/s 161 CrPC. Learned defence counsel has further submitted that the victim nullified the prosecution case and from the evidence of PWs no ingredients of offence is made out against the accused.

8. It is at this stage expedient to cast a glance at the evidences of the prosecution witnesses.

9. For this, let us at first go through the evidence of PW-1, Ritu Haloi, who is the informant as well as the mother of the victim of this case. PW-1 stated in his evidence that about 1½ year back while her daughter Namita Haloi was reading in Class-X in Sorabori High School, one day at about 9 AM her daughter came to school for submitting her practical works. At that time the PW-1 was not present in her house. At 1 PM when she reached home her elder daughter, Tarali Haloi, informed her that Namita called her over

phone and told her that she had eloped with one Moon. Thereafter PW-1 came to her school at 2 PM. The school was already closed by that time. After that PW-1 went to meet her friend Anamika in her house. When PW-1 asked her mother whether her daughter came to their house from school, PW-1 was told that the school was closed that day. PW-1 searched for her daughter everywhere. But could not find her. Till the evening when her daughter did not return home she went to the house of the accused at 5 PM and asked his mother about Pranjit. Then she was told that Pranjit went to his friend's house. PW-1 told her mother that as her daughter did not return home she suspected that she may elop with Pranjit and requested his mother to send her back when they return. It is revealed that PW-1 lodged the ejahar after 3 days from the occurrence and her daughter was recovered after 13 days. But again after 1½ months her daughter eloped away with the accused. At the time of occurrence her daughter was 17 years old.

10. Coming to the evidence of PW-2, Namita Das, who is the victim of this case, we find her stating that prior to the occurrence there was a love-affair between her and the accused. PW-1 further stated that as her mother did not accept their relationship, on the day of occurrence at about 9 AM she eloped with the accused. After going away with him she stayed in the house of the accused. According to PW-2 when they came to know about the lodging of the ejahar, she along with Pranjit came to Kamarkuchi Outpost. It is revealed from the evidence of PW-2 that after 1 month she again eloped away with the accused. Today she came to the court from the house of the accused.

11. After going through the evidence of the PWs we find that the accused has neither forced the victim to elope away with him nor did he kidnap her. Even PW-2 clearly stated in her cross-examination that she willfully went away with the accused. It is also revealed from the cross-examination of both the PWs that both the accused and the victim are leading peaceful conjugal life at present and a son is born out of the wedlock. Apart from that PW-1 stated in his cross-examination that she has no objection if the accused is acquitted from this case.

12. Under the above circumstances, it won't be proper to held the accused guilty u/s 366 IPC. Hence we can assume that the allegations made against the accused for committing an offence u/s 366 IPC are not true.

O R D E R

13. From the discussion made above, I find that the prosecution has miserably failed to prove the offence u/s 366 IPC against the accused.

Hence, accused Pranjit Das is found not guilty and is acquitted from the charge of offence u/s 366 IPC.

The accused person is set free at his liberty forthwith.

Bail bond furnished by the accused shall stand canceled after period of 6 months.

Given under my hand and seal of this court on this the 28th day of November/2018

Asstt. Sessions Judge,
Nalbari

Dictated & corrected by me

Asstt. Sessions Judge, Nalbari

A P P E N D I X

(A) **Prosecution witnesses:**

PW 1 : Ritu Haloi (Informant)

PW 2 : Namita Das (Victim)

(B) **Prosecution exhibited documents :**

Ext-1 – Ejahar,

Ext- 1(1) - Signature of the informant,

Ext-2 – Statement of the victim recorded u/s 164 CrPC.,,

Ext-2(1)-2(3) – Signatures of the victim,

(C) **Defence witnesses** : Nil.

(D) **Defence exhibited document** : Nil.

Asstt. Sessions Judge,
Nalbari