

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

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

SESSIONS CASE NO : 72/18

U/S 366-A IPC

STATE OF ASSAM

- VS -

NIRANJAN DAS

..... Accused person.

Committed by learned JMFC, Tihu vide order dated 02/11/2018 in connection with PRC. Case No. : 39/18

APPEARANCE :

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

Advocate for the defence : Sri Sandip Kr. Talukdar and Sri
Pranita Haloi.

Date of Evidence : 29/11/2018

Date of Argument : 30/11/2018

Date of Judgment : 30/11/2018.

J U D G M E N T

1. The gist of the prosecution case in brief is that informant Krishna Kanta Das lodged an ejahar before Tihu Police Station on 22/12/2017 stating interalia that on that very day at about 10-00 AM his daughter Sri Silpa Das, who was the student of class X went to school for practical. When she did not return from school he searched for her and came to know that accused Niranjan Das had kidnapped her. Hence, this case.

2. On receipt of the ejahar police registered a case as Tihu PS Case No. 213/17 u/s 366 IPC and started investigation. After completion of investigation the I/O submitted charge sheet against the accused 366-A IPC. On perusal of the case record the learned JMFC, Tihu committed this case to the court of Hon'ble Sessions Judge, Nalbari u/s 366-A IPC. 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-A 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 only 2 (two) witnesses including the victim to prove the charge against the accused. Accused was examined u/s 313 CrPC. The statement of defence is recorded in a separate sheet. The defence case was of complete denial and the defence side has not adduced any defence evidence.

5. **POINT FOR DETERMINATION**

Whether the accused on 22/12/2017 at about 10:00 AM at village- No. 1 Nathkuchi under Tihu PS induced Miss Silpa Das, (a minor girl under the age of 18 years) to go from her house or to do any act with him knowing it likely that she will be forced to have illicit intercourse with him ?

DISCUSSION DECISION AND REASONS THEREFOR:

6. I have heard learned counsel for 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-A IPC.

7. On the other hand, the learned defence counsel has submitted that the prosecution has failed to prove the case as 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 has nullified the prosecution case and from the evidence of PWs no ingredients of the offence is made out against the accused.

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

9. In order to find out whether the accused had committed the offence of kidnapping the victim or not, let us at first go through the evidence of PW-1 Sri Krishna Kanta Das, who is the informant in this case. PW-1 stated that on 22/12/2017 when he reached home at 02:30 his wife, Alaka Das told him that their daughter Silpa Das had gone to Basanti High School for submitting her practical works at 11 AM, but did not return from school. After

searching for her everywhere he came to know that her daughter had eloped with the accused. Thereafter he lodged the ejarah. PW 1 further stated that on the next day police recovered his daughter along with the accused from his house and brought them to the Police Station. On being informed by the police he went there. From the Police station the victim was sent for medical examination and was also produced before the court for recording of her statement. According to PW 1, though the custody of the victim was given given to them, after staying in their house for 8-10 days she again went to the house of the accused for second time. As she had her HSLC Examination they brought her back. But after her HSLC examination was over she again went to the house of the accused for the third time. It is revealed from the evidence of PW 1 that at the time of occurrence the victim was 18 years old. But in the age certificate her actual age is not reflected.

10. Let us now go through the evidence of PW-2, Silpa Das, who is the victim of this case. PW-2 deposed that on 22/12/2017 she had eloped with the accused to the house of his maternal uncle and stayed there for 1 day. On the next day she came back to the house of Niranjana Das. On the same day police recovered her from the house of the accused and brought them to Tihu PS. Thereafter she was sent for medical examination and was also produced before the court for recording of her statement.

11. From the evidence of PW 1 and PW 2, it appears that none of them has made any allegations against the accused that he had kidnapped her. On the other hand, it is revealed from their evidence that the victim had wilfully eloped with the accused.

12. Apart from that it is revealed from the cross-examination of PW 1 and PW 2 that the victim is residing in the house of the accused at present as his wife. PW 2 also admitted in her cross-examination that she had love affair with the accused and that the accused did not kidnap her.

13. Regarding the age of the victim it is already stated by PW 1 that

at the time of occurrence the victim was 18 years old. In view of the above discussions and circumstances, the accused cannot be held guilty for commission of the offence u/s 366(A) IPC.

O R D E R

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

Hence, the accused Niranjana Das is found not guilty and is acquitted from the charge of offence u/s 366-A 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 30th 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 : Sri Krishna Kanta Das (Informant),

PW 2 : Silpa Das (Victim).

(B) **Prosecution exhibited documents :**

Ext-1 : Ejahar,

Ext-1(1) : Signature of PW-1,

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

Ext-2(1), 2(2) : Signatures of PW-2.

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

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

Asstt. Sessions Judge,
Nalbari