

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

Present : *Sri Rahul Medhi*
Asstt. Sessions Judge,
Nalbari

(Date of Judgment: 14-09-2022)

(Sessions Case No. 37/2022)

(Details of FIR/Crime: 335/2020 and Police Station:
Mukalmua)

COMPLAINANT	STATE OF ASSAM
REPRESENTED BY	Mr. Mrigen Das, Addl.P.P.
ACCUSED	A.1- Md. Saddam Ali @ Hussain.
REPRESENTED BY	Mrs. A. Ali, Mr. A. Hussain & Mr. R. Islam

Date of Offence	14-08-2020
Date of FIR	15-08-2020
Date of Charge-sheet	31-12-2020
Date of Framing Charge	06-06-2022
Date of commencement of evidence	05/09/2022
Date on which judgment is reserved	Nil
Date of Judgment	14-09-2022
Date of sentencing order, if any	Nil

Accused details

Rank of the accused	Name of the accused	Date of arrest	Date of release on bail	Offences charge with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial for the purpose of section 428 of IPC
A-1	Saddam Ali @ Hussain	15/11/2020	15-11-2020	366(A) of IPC	Acquitted		0 days

J U D G M E N T

1. The prosecution case, in brief, is that on 15/08/2020 the informant, Md. Sarbesh Ali lodged a FIR before Mukalmua PS alleging inter alia that on 14/08/2020 when he and his family members were working in the back side of their house, the accused Saddam Ali with the help of other accused persons, namely, Sonabar Ali, Paran Ali and Mori Nesha forcefully kidnapped his daughter, Miss Shehnaz Parbin, aged 15 years. Hence, this case.

2. The FIR was registered as Mukalmua PS Case No.337/2020 u/s-366(A) of IPC. During investigation stage accused Saddam Ali @ Hussain was arrested and he was later

on released on bail. After completing the investigation, the I/O submitted charge-sheet against the accused u/s-366(A) of IPC. The case was committed to the court of Sessions by learned Chief Judicial Magistrate,Nalbari. Later on the case was transferred to this court. The accused appeared and formal charge was framed against him u/s-366(A) of IPC.

3. During trial prosecution examined only two witnesses including victim. Prosecution evidence was closed as there was no scope for improvement in the prosecution case. Defence did not lead any evidence. The statement of the accused u/s-313 CrPC is dispensed with. I have heard arguments from both sides and framed the following point for determination.

4. The following point for determination is framed in this case :-

POINT FOR DETERMINATION:-

Whether the accused person on 14/08/2020 at about 11 am at Meruwattary village under Mukalmua PS in the district of Nalbari kidnapped Miss Shehnaz Parbin (a minor girl aged about 15 years) to go with the accused with an intention that she may be (or knowing it likely that she will be) compelled to marry against her own will or will be forced or seduced to illicit intercourse with the accused and thereby committed an offence punishable u/s-366(A) of IPC?

DISCUSSION DECISION AND REASONS THEREOF

5. I have scrutinized the evidence on record. Now to arrive at a judicious decision let me discuss and appreciate the testimonies of the witnesses. First of all let me discuss the evidence of PW-2 Miss Shehnaz Parbin who is the victim of this case narrated during her evidence that the incident took place more than two years back. She had love affairs with the accused and when her parents refused to get her married to the accused and had been trying to get her married to some other person, she on her own will fled away with the accused. Her father lodged the FIR on which the family members of the accused brought her to her house, from there she was produced in the police station and was taken to medical and from there she was produced before the court for recording her statement u/s-164 CrPC. She exhibited her statement u/s-164 CrPC as Ext-P-1/PW2.

During cross-examination she testified that she does not remember what she has stated in her statement u/s-164 CrPC. She further stated that she does not want to proceed with the case any further and she has no objection if the accused is acquitted from this case.

6. Evidence of PW-1 mother of the victim testified that informant is her husband and she knows the accused, Saddam Ali @ Saddam Hussain. The incident took place 3 years back. The accused had love affairs with her daughter, Shenaz Parbin and her daughter went away with the accused.

Being unable to trace her out, her husband lodged the FIR. Thereafter, the family members of the accused produced her daughter in the police station. The police sent her for medical examination and produced before the court for recording her statement u/s-164 CrPC. Later on her daughter was handed over to them and presently she is with them.

During cross-examination she admitted that she has not given any proof of her daughter being 15 years to the police at the time of the incident. She further admitted that the accused had no kidnapped her daughter but her daughter had fled away with the accused on her own will hearing about getting her married to another person.

7. Now from the evidence of the mother of the victim and the victim, it is clear that the ingredient of section 366(A) of IPC is missing in this case. It is also found that the victim went voluntarily and at present she is 18 years old. Presently, she is living with her parents peacefully. It is also found that presently both the parties have no enmity. Hence, in my considered opinion, the case does not come under the purview of section 366(A) of IPC.

8. The prosecution has miserably failed to prove the offence of kidnapping against the accused. Point for determination is decided in negative.

9. The accused person is facing trial under section 366(A) of IPC and from the evidences on record, there is no hint of allegation found against the accused person. In result, it is

held that the prosecution has failed to prove the case beyond reasonable doubt. Accused Md. Saddam Ali @ Saddam Hussain is held not guilty u/s-366(A) of IPC and he is acquitted. Accused is set at liberty forthwith. Surety stands extended for next six months.

10. Judgment is delivered in the open court. Case is disposed of on contest.

Given under the hand and seal of the court on this the **14th day of September, 2022.**

Asstt. Sessions Judge,
Nalbari.

Dictated and corrected by

Asstt. Sessions Judge,
Nalbari.

APPENDIX-14

LIST OF PROSECUTION/DEFENCE/COURT WITNESS

A. Prosecution Witness:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Musstt. Rukiya	OTHER WITNESS

	Begum	
PW2	Musstt. Shehnaz Parbin	VICTIM

B. Defence Witness, if any: NOT APPLICABLE

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MIDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1		
DW2		

C. Court Witness, if any: NOT APPLICABLE

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MIDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW1		
CW2		

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution :

Sl No	Exhibit Number	Description
1	Exhibit P-1/PW-2	164 CrPC statement of the victim
2		

B. Defence : NOT APPLICABLE

Sr. No.	Exhibit Number	Description
1.		

2		
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C. Court Exhibits :NOT APPLICABLE

Sr. No.	Exhibit Number	Description
1		
2		

D. Material Objects : NOT APPLICABLE

Sr. No.	Exhibit Number	Description
1		

Asstt. Sessions Judge,
Nalabri.