

IN THE COURT OF ADDL SPECIAL JUDGE (FTC)::KOKRAJHAR

Present :- Sri C. Chaturvedy,
Addl. Special Judge (FTC),
Kokrajhar

SPECIAL CASE NO.59/2018
U/S. 4 of Protection of Children
from Sexual Offences Act, 2012
and Section 363 of IPC.



STATE OF ASSAM

Vs

Sri Ghuttu Batman
Late Jatin Barman
Vill: Khalichanimari,
P.S: Gossaingaon, Kokrajhar

..... Accused person.

Appearance:-

Learned Counsel for the State	Mr. Manjit Ghosh, Special P.P
Learned Counsel for the defence	Mr. S. Pahariya

Charge framed on 15.2.2019

Evidence recorded on 11.3.2019, 29.3.2019

Argument heard on 29.3.2019

Judgment pronounced on 29.3.2019

JUDGMENT

1. The case of the prosecution is that on 18.10.2016 one xxx, the father of the victim, xxx, lodged a written FIR at Bhowragur Out-post alleging that on 17.10.2016 at about 4 p.m while hwe daughter xxx, the victim, had gone to take her tuitions at that accused Ghuttu Barman in collusion with accused Tepla Barman, Subhash Barman, Malati Barman, abducted his minor daughter and her whereabouts are not known.

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2. The FIR was forwarded to Gossaingaon Police Station. On receipt of the FIR, a case U/S 366A/34 IPC was registered and investigated. After completion of the investigation, a charge sheet was laid against the accused Ghuttu Barman for commission of offence U/S 363 IPC read with Section 4 of the POCSO Act. The case later transferred to this Court for disposal.

3. The accused person was summoned and on his appearance, copies of the relevant documents were furnished to him. Upon hearing both sides, charges U/S 363 IPC read with Section 4 of the POCSO Act were framed against the accused to which he pleaded not guilty and claimed to trial.

4. In the course of trial prosecution examined 4 witnesses. At the closure of prosecution evidence, the accused person was examined U/S 313 of the Cr.P.C. The defence plea is of total denial and the accused declined to adduce any evidence.

POINTS FOR DETERMINATION :-

(i) Whether the accused has committed offences under Section 363 IPC read with Section 4 of the POCSO Act by abducting the victim and committing penetrative sexual offence with her?

DECISION AND REASONS :

5. PW1 xxx, is the mother of the victim. She deposed that the occurrence took place about 2 ½ years ago. She deposed that accused Ghutu kidnapped her daughter, xxx, and took her away to different place. Her daughter married the accused and now she has a girl child



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aged about 1 $\frac{1}{2}$ years. Her daughter and the accused are now staying at the residence of the accused as husband and wife.

6. In cross-examination, p w 1 deposed that her daughter had gone to take her tuition and then she eloped with the accused.

7. PW2 xxx, is the father of the victim. He deposed his daughter had gone to tuition and then she eloped with the accused. Now his daughter has married the accused and she has a girl child, aged about 1 $\frac{1}{2}$ years. His daughter is living with the accused at the residence of accused.

8. In cross-examination, pw 2 deposed that at the time when his daughter eloped with the accused she had already attained the age of 18 years.

9. PW3, xxx, is the paternal Uncle of the victim. He deposed that about two years back the daughter of informant eloped with the accused. Later, he came to know that she had married the accused and now they have a girl child, aged about 1 $\frac{1}{2}$ years.

10. PW4 is the victim. She deposed that the informant is her father and accused is her husband. She deposed that she used to love the accused and they decided to marry. She also deposed that she is now living with the accused as husband and wife.

11. In cross-examination, PW4 deposed that her father had lodged the FIR out of mistake of fact and that she was more than 18 years of age when she married with the accused.



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In view of the nature of the evidence on record, there appears not material to suggest that the victim was a minor at the time when the offence was alleged to have been committed. Thus, there is no evidence of kidnapping. The evidence rather reveals that victim and the accused married due to their mutual love for each other. Thus, neither any offence under Section 363 IPC is made out nor any offence under Section 4 of the POCSO Act is made out. This case appears to one of mistake of fact.



12. The point for determination is answered in negative.

ORDER

Accused Ghuttu Barman is acquitted of the charges under Section 353 IPC and Section 4 of the POCSO Act and set at liberty forthwith.

His bail bonds is extended for six months.

Given under the hand and seal of this Court

Dicated by: -

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Addl. Special Judge
Kokrajhar
Kokrajhar

29/3/29
Addl. Special Judge
Addl. Special Judge
Kokrajhar
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APPENDIX

Prosecution Exhibits: -

Exhibit 1- FIR

Exhibit 2-Statement under Section 164 CrPC.

Prosecution witnesses: -

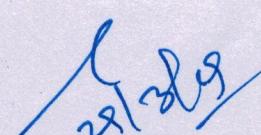
Pw 1 -Mother of the victim

Pw 2- Father of the victim

Pw 3- Paternal Uncle of the victim

Pw 4- Victim

Defence evidence-Nil



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