

Special (POCSO) Case No. 08/2019.

(U/S - 366(A) of the IPC read with Sec. 4 of the POCSO Act,2012.)

State of Assam

- Versus -

Bappon Mazumder @

Ikbal Hussain Mazumder

...... Accused.

PRESENT: Shri D. Bhattacharjee, Special Judge, Hailakandi.

Appearance and particulars :-

For the State

:- Sri U.K. Das, Ld. Public Prosecutor.

For the accused person

:- Sri J.U. Laskar, Ld. Advocate.

Date of recording evidence

:- 13.11.2019.

Date of recording statement u/s 313, CrPC :- 15.11.2019.

Date of Argument

:- 15.11.2019.

Date of Judgment

:- 15.11.2019.

JUDGMENT

1. The prosecution case, in brief, is that on 18.06.2018 the informant Smti. Sufia Begum Mira lodged an ejahar with the O/c, Hailakandi Police Station alleging that on 18.06.2018 at about 2 PM while her daughter i.e. the victim was returning to her house from the house of her maternal uncle situated at Boalipar, on the way, the accused person met her and forcefully kidnapped her and knowing about the said fact when she made contact with the accused, the accused informed her that he would not hand over the victim and the accused also threatened her with death.

- On receipt of the ejahar, the same was registered as Hailakandi Police Station case No. 456/2018 under Sec. 366 of the IPC and during investigation, police visited the place of occurrence, drew up rough sketch map thereof, recorded statements of witnesses, got the victim medically examined and also got her statement recorded under Sec. 164, CPC and after completion of investigation submitted charge sheet against the accused person Ikbal Hussain Mazumder @ Bappon under Sec. 366 of IPC read with Sec. 4 of the POCSO Act.
- 3. On appearance of accused person Ikbal Hussain Mazumder @ Bappon, copies of relevant materials in terms of Sec. 207 of the CrPC were furnished to him.
- After hearing the Ld. Public Prosecutor and the Ld. Defence Counsel and after perusal of materials available on record, having found sufficient grounds for presuming that the accused person has committed the offence, the formal charges have been framed against the accused person Bappon Mazumder @ Ikbal Hussain Mazumder under Sec. 366(A) of the IPC read with Sec. 4 of the POCSO Act. The charges so framed were read over and explained to the accused person, to which he pleaded not guilty and claimed to be tried. Hence, the trial.
- In the instant case, the prosecution has examined 2 Nos. of PWs i.e. the victim and the informant of the case. Thereafter, on submission of Ld. Public Prosecutor and the Ld. Defence Counsel, the prosecution evidence was closed. The accused person is examined under Sec. 313, CrPC, wherein he has denied all the allegations. The defence did not adduce any evidence.
- **6.** Heard argument of both sides. Perused the record.

POINT FOR DETERMINATION:-

(i) Whether the accused person on 18.06.2018 at about 2 PM at Ward No. III, Hailakandi town under Hailakandi PS induced the victim, the Contd...........P/3.



daughter of the informant to go with him with intent that she may be for knowing that she will be forced or seduced to illicit intercourse and thereby the accused has committed the offence punishable under Sec. 366(A), IPC?

(ii) Whether the accused person committed penetrative sexual assault on the victim and thereby, the accused has committed the offence punishable under Sec. 4 of the POCSO Act?

DISCUSSION, DECISION AND REASONS THEREOF:

- The PW. 1, the victim, has deposed that about 1- ½ years back one day she alongwith the accused, who is her distantly related cousin, went to Silchar to her aunt's house for roaming without informing her mother and when her mother heard that she went with the accused, out of suspicion, her mother filed the case but in the evening of that very day, she returned back house. It is further deposed by the victim that the accused did not commit any bad act with her and she has got no allegation against the accused. During investigation, police got her medically examined and also got her statement recorded by Magistrate vide Ext. 1.
- 8. The PW. 2, Sufia Begum Mira, the informant, has deposed that about 1- 1/2 years back one day her daughter went with the accused, who is her distant relation, to the house of her (victim) aunt without informing her and as such, finding her not available in the house, the informant lodged the case vide Ext. 2 against the accused out of suspicion but in the evening itself of the said day, the victim returned home back. It is further deposed by the informant that she has got no accusation against the accused as he did not commit any bad act with her daughter.
- 9. In the instant case, from the evidence of the victim, it is clearly appeared that on the relevant day, she went with the accused, who is her distant relation, to the house of her aunt and in the evening, she returned back her home but her mother, the informant, out of suspect lodged the case against the accused. It is also revealed from her evidence that the accused did not commit any

Sessions Judge

Contd......P/4.

bad act with her and she has got no accusation against the accused person. Corroborating the evidence of the victim, her mother i.e. the informant has also stated in her evidence that she lodged the case against the accused out of suspicion and she has got no accusation against the accused as the accused did not commit any bad act with her daughter. So, it is appeared that the victim as well as her mother, the informant has not implicated the accused person in any way in the commission of the alleged crime, rather they have given clean chit to the accused stating that the accused did not commit any bad act with the victim and the victim went with the accused merely for roaming and in the evening, the victim returned back home. As such, I do not find any cogent reason to hold the accused person guilty for the commission of the offence and thus, the accused person Bappon Mazumder @ Ikbal Hussain Mazumder is acquitted of the offence charged under Sec. 366(A) of the IPC read with Sec. 4 of the POCSO Act. Set him at liberty forthwith.

10. The bail bond of the accused stands discharged.

11. Send a copy of this judgment to the Ld. District Magistrate,

Hailakandi.

The judgment is delivered today, on this the 15^{th} day of

November, 2019.

Special Judge, Hailakandi.

<u>Dictation is taken and transcribed by Baharul Islam Choudhury, Stenographer Grade I.</u>

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Appendix:-

Oral evidences :-

PW. 1, the Victim.

PW. 2, Sufia Begum Mira, the informant.

Documentary evidences:-

Ext. 1- Statement of the victim recorded under Sec. 164, CrPC. &

Ext. 2- Ejahar.

Defence did not adduce any evidence.

Special Judge, Hailakandi