Present: Utpal Prasad, AJS
Sessions Judge
Karimganj at Karimganj

18.04.2017

ORDER

The accused Santosh Das is present with his learned counsel.

Learned Additional Public Prosecutor is also present.

Copies of the papers u/s 207 of the Code of Criminal Procedure, 1973 has been received by the accused.

Heard both the sides on point of charge. Also perused the materials collected during investigation and placed before this Court under section 173 of the Code of Criminal Procedure, 1973, on which the prosecution relies in support of its case.

The aforesaid accused has been charge-sheeted on the allegation of having committed offences under sections 366(A) of the Indian Penal Code and under section 8 of The Protection of Children from Sexual Offences Act, 2012. The allegation against him is that he abducted the minor daughter of the 1st informant and, thereafter, informed the 1st informant that the victim was with him.

From the case diary and case record It is revealed that the victim was medically examined and her statement was also recorded under section 164 of the Code of Criminal Procedure, 1973. In her statement under section 164 of the Code, she has stated that as she was in love with the aforesaid accused, she had eloped with him without informing anyone in her residence. She has further stated that thereafter, the accused had kept her in his house from where the police recovered her. The history of the

case as given by her and recorded by the examining doctor also shows that she went with the accused of her own accord. Though, the Doctors finding is that the victim was around 16 years of age at the time of the incident, in absence of any allegation of inducement on the part of the accused, the same is of no avail.

The statements of other witnesses recorded in this case are hearsay. While the family members of the victim including the 1st informant have stated that they came to know that the accused had abducted the victim from elsewhere, it is clear that they had themselves not seen the incident happened. They have also stated that after the victim daughter went missing, the accused informed them over phone that she was with him. Other witnesses are also of hearsay nature. There have stated that they had seen the accused loitering around the residential house of the victim and that the accused had attempted to abduct the victim even earlier and that they had warned him not to do so. However, this does not seem believable as no case against the accused is stated to have been filed complaining about the earlier alleged attempts for abduction. There is no whisper by any of the witnesses including the victim that the accused assaulted her sexually or abused her sexually.

In view of the above, the materials on record, failed to generate suspicion in the mind of this Court of involvement of the aforesaid accused in the offence he has been charged with. In view of the above, the aforesaid accused is discharged of the allegation of having committed offences under sections 366(A) of the Indian Penal Code and under section 8 of the Protection of Children from Sexual Offences Act, 2012 and is set at liberty forthwith. His bail bond and surety stand discharged forthwith.

With the above, the instant case stands dismissed without contest.

Sessions Judge Karimganj