CAUSE TITLE PCSO Case No. 5/14

Informant: Sri Lalit Rabidas,

S/o- Late Lakheswar Rabidas, R/o- New Line, Bokul Tea Estate,

PS- Lahoal,

District- Dibrugarh.

Accused: Sri Umakanta Rabidas,

S/o- Sri Samlal Rabidas,

R/o- New Line, Bokul Tea Estate,

PS- Lahoal,

District- Dibrugarh.

ADVOCATES:-

For the State: Mrs. Runumi Devi, learned Public Prosecutor.

For the Defence: Sri Amit Kumar Patwa, learned Advocate.

IN THE COURT OF THE SESSIONS JUDGE: DIBRUGARH

Present: Shri S.K. Sharma, AJS,

Sessions Judge, Dibrugarh.

> PCSO Case No. 5/14 G.R. Case No. 577/14

> > State of Assam

-Vs-

Sri Umakanta Rabidas

Charge u/S 8 PCSO Act.

Date of evidence on : 12-05-15 & 27-05-15.

Date of argument : 27-05-15. Date of Judgment : 27-05-15.

JUDGMENT

- 1) Prosecution case is that the prosecutrix, who is a minor was alone in her house in the evening on 05-03-14 and at that time, the accused went to her house and committed sexual assault upon her. The brother of the prosecutrix arrived at the house and on finding out about the occurrence, lodged the ejahar whereafter, a police case was registered and investigation commenced. In course of investigation, the Investigating Officer recorded the statement of the witnesses and took other necessary steps and on completion of investigation, submitted Charge-Sheet.
- 2) Upon committal, my learned predecessor framed charge under Section 8 PCSO Act against the accused person and the charge was read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
- 3) In course of trial, prosecution examined five witnesses and on conclusion thereof, the accused person was examined under Section 313 CrPC wherein the accused person took the plea of denial.
- (5) Heard Smti. R Devi, learned PP for the State and Sri AK Patwa, learned counsel for the defence.

POINT FOR DETERMINATION

1. Whether the accused person committed sexual assault upon the prosecutrix?

DECISION AND REASONS THEREOF

Point No. 1:

- 6) In this case, the prosecutrix was examined as PW-1. She deposed that she knew the accused person and on the date of occurrence, at about 6:30 pm, when she was alone in her house, the accused person came to their house and they were talking. At that time, her father arrived at their house and rebuked the accused person on suspicion and the accused person left their house. She stated that her father lodged the ejahar on suspicion. During cross-examination, she stated that she and the accused simply talked and thereafter, the accused left. She further stated that she does not have any allegation against the accused person.
- 7) PW-2/Sri Lalit Rabidas, who is the father of the prosecutrix and informant similarly deposed that he saw the accused person talking with his daughter when he came back from work. On suspicion, he rebuked the accused, who thereafter went away from his house. He further deposed that his daughter is about 15 years of age. During cross-examination, he stated that he did not see any other thing except his daughter and the accused talking and his daughter also told him that she was talking with the accused. He further deposed that he did not write the Ext. 1/ejahar and has no allegation against the accused and that he had lodged the ejahar due to misunderstanding.
- 8) PW-3/Smti. Sushila Rabidas is a hearsay witness.
- 9) PW-4/Sri Suraj Rabidas, who is the elder brother of the prosecutrix, stated that he came to know from his father that the accused had misbehaved with the prosecutrix, but admitted during cross-examination that he did not say any such thing before the Investigating Officer. He further stated that he did not know anything about the incident himself.
- 10) PW-5/Smti. Durgi Rabidas is another witness whose evidence can safely be discarded as hearsay.
- 11) From the above discussion, it is clear that the prosecutrix herself as well as the informant have not supported the prosecution case and the prosecution, therefore, must necessarily fail. Hence, the issue is answered accordingly.
- 12) In the result, I hold that the prosecution has miserably failed to establish its case and consequently, the accused person is acquitted of the offence under Section 8 PCSO Act and he be set at liberty forthwith.
- 13) The bail bond shall remain in force for a further period of 6 (six) months

under Section 437-A CrPC.

Given under my hand and seal of this Court on this the 27^{th} day of May, 2015.

Sessions Judge, Dibrugarh

Certified that the judgment is typed to my dictation and corrected by me and each page bears my signature.

> Sessions Judge, Dibrugarh

APPENDIX

List of witnesses:

- (1) P.W. 1 Prosecutrix;
- (2) P.W. 2 Sri Lalit Rabidas;
- (3) P.W. 3 Smti. Sushila Rabidas;
- (4) P.W. 4 Sri Suraj Rabidas; and
- (5) P.W. 5 Smti. Durgi Rabidas.

List of Exhibits:

(1) Ext. 1 Ejahar.

List of witnesses and Exhibits for defence- None

Sessions Judge, Dibrugarh

Transcribed and typed by:-Bhaskar Jyoti Bora, Steno.