

Special (POCSO) Case No. 19/2019.

(U/S - 366(A)/376, IPC read with Sec. 4 of the POCSO Act, 2012.)

State of Assam

- Versus -

Minku Nath @ Manna

...... 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 K.U. Laskar, Ld. Advocate.

Date of recording evidence :- 25.09.2019 & 08.11.2019.

Date of recording statement u/s 313, CrPC :- 14.11.2019.

:- 14.11.2019.

Date of Argument

Date of Judgment

:- 14.11.2019.

JUDGMENT

The prosecution case, in brief, is that on 14.06.2018 the informant Smti. Sapta Sen lodged an ejahar with the O/c, Hailakandi Police Station alleging that on 12.01.2019 at about 7.30 PM her daughter i.e. the victim went out of the house to go to the grocery shop for purchasing essential commodities but she did not return back home and accordingly, the informant made vigorous search for the victim but she could not find out her.



- 2. On receipt of the ejahar, the same was registered as Hailakandi Police Station case No. 40/2019 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 Minku Nath @ Manna Nath under Sec. 366 of IPC read with Sec. 4 of the POCSO Act.
- 3. On appearance of accused person Minku Nath @ Manna Nath, 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 Minku Nath @ Manna Nath under Sec. 366(A)/376 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 3 Nos. of PWs including 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 the allegations. The defence did not adduce any evidence.
- 6. Heard argument of both sides. Perused the record.

7. <u>POINT FOR DETERMINATION</u>:-

(i) Whether the accused person on 12.01.2019 at about 7.30 PM at Ward No. VIII, 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 after kidnapping the victim, committed rape on her and thereby, the accused has committed the offence punishable under Sec. 376, IPC?

(iii) 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:

her husband. The informant and her daughter, the victim were residing in their house on rent since one year back of the incident and the informant was not paying the house rent regularly and as such, she pressurized the informant to pay the outstanding rent and that is why, the informant started quarrel with her but her (PW.1) husband went in favour of them. At that time, the victim and her brother even assaulted the witness and thereafter, the witness filed a case against the victim and her brother as well as her (the PW. 1) husband but subsequently, she withdrew the case but subsequently, after about 15 days of withdrawal of the case, the informant filed the instant case against her husband.

In cross examination held by the defence, the witness has stated that the informant has not paid the outstanding house rent still.

January,2019, she alongwith her mother was residing in the house of accused on rent and during that period, one day, she went with the accused to her aunt's house at Karimganj for roaming without informing her mother and as such, her mother



Contd.....P/4.

filed the case out of misunderstanding but in the evening, she returned back home. Subsequently, police got her medically examined. It is further deposed by the victim that there was some dispute between her mother and the accused regarding land and as such, she made her statement, Ext. 1, before the Magistrate as per instruction of her mother, the informant and Ext. 1(1) is her signature.

- 10. The PW. 3, Swapta Sen, the informant has deposed that the incident occurred in the month of January,2019 and at that time, they were residing in the house of accused on rent and one day, her daughter i.e. the victim went to her aunt's house alongwith the accused at Karimganj for roaming without informing her and hence, she filed the case vide Ext. 2, FIR, but the victim returned home back in the evening and she came to know about the said fact and she is repentant for that. It is further deposed by the informant that she has got no allegation against the accused.
 - In the instant case, the informant as well as her daughter, the 11. victim in their evidence, has not stated even a single word implicating the accused person. From the evidence of the victim, it is vividly clear that on the relevant day, she merely went to the house of her aunt at Karimganj for roaming with the accused and in the evening, she returned back and came to know about the filing of the case by her mother, the informant and during investigation, police got her medically examined and she also made statement before Magistrate as per instruction of her mother. So also the informant has narrated the same fact before this court stating that at the relevant time, she and her daughter were residing in the house of accused on rent and her daughter went to her aunt's house for roaming with the accused without informing the informant and hence, she filed the case but in the evening, the victim came back to the house and reported the real state of affair and as such, she is repentant and she has got no allegation against the accused. As such, when the victim herself, whose evidence bears much significance to decide such type of cases, has not supported the prosecution case, I do not find any cogent

Sosions Judge

Special (POCSO) Case No. 19/2019.

-5-

reason to hold the accused person guilty for the commission of the offence, alleged.

- **12.** Accordingly, it can be safely held that the prosecution failed to prove its case against the accused person.
- The accused person Minku Nath @ Manna is acquitted of the offence charged under Sec. 366(A)/376 of the IPC read with Sec. 4 of the POCSO Act. Set him at liberty forthwith.
- **14.** The bail bond of the accused stands discharged.
- Send a copy of this judgment to the Ld. District Magistrate,

Hailakandi.

The judgment is delivered today, on this the 14th day of

November, 2019.

Special Judge, Hailakandi.

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

Special (POCSO) Case No. 19/2019.

-6-

Appendix :-

Oral evidences :-

PW. 1, Smti. Aloka Nath,

PW. 2, the victim &

PW. 3, Swapta Sen.

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