## IN THE COURT OF THE SESSIONS JUDGE ::::::::::: KOKRAJHAR

## Sessions case No.116/2014

State of Assam
Vs.
Md Mohibul Hoque ...... Accused

Present: Sri P.K.Bora, A.J.S. Sessions Judge, Kokrajhar

Ld. advocates for the accused: Mr A.K.Miah

Ld. advocate for the State : Mr N.Roy (P.P.)

Evidence recorded on: 04.4.15, 30.4.15, 22.5.15, 03.7.15,

01.8.15

and 19.9.15

Argument heard on : 08.10.2015

Judgment delivered on: 16.10.2015

# J U D G M E N T

- 1. The case of the prosecution in brief is that on 27.01.2014 one Mosstt Asia Bibi lodged an FIR (Ext.1) before the In-charge of Chithila P.P., Fakiragram P.S. stating that on 25.01.2014 in the evening at about 5.30 p.m. her daughter Ruksana Begum had set out to bring cattle from the paddy field, but she did not return, that on the next day morning she heard from Samser Ali that the dead body of Ruksana Begum was found in the paddy field.
- 2. Having received an Ejahar police registered a case and investigated the matter and finally submitted the charge sheet against the accused Mohibul Hoque and Nashiruddin Sk. The accused Nasiruddin Sk. was

a juvenile so he was sent to face trial before the Juvenile Justice Board.

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committing court committed the case to this court. On his appearance before this Court the written charge under section 302 IPC read with section 6 of the Protection of Children From Sexual Offences Act,2012 was explained and read over to the accused to which the accused pleaded not guilty.

#### 3. **Point for determination:**

- 1) Whether the accused person committed penetrative sexual assault to minor Ruksana Begum ?
- 2) Whether the accused person committed murder of the minor Ruksana Begum ?

## 4. Reason and decision thereon:

In the course of trial prosecution examined the informant Mosstt Asiya Bibi as PW1, Miss Rehana Khatun as PW2, Md Jabbar Ali as PW3, Md Sahad Ali as PW4, Dr Nihar Ranjan Biswas as PW5, Md Bachu Ali as PW6, Md Samser Ali as PW7, Mosstt Momina Bibi as PW8, Md Yakub Ali has already been examined as PW8, Md Jahan Ali as PW9, Sri Nabajit Pathak as PW10 and Sri Kanthiram Barman as PW11.

- 5. PWs 1, 2, 3 and 4 stated in their evidence that on the date of the incident Ruksana Begum set out to bring cattle from the field and on the following day the dead body of Ruksana Begum was found in the paddy field.
- 6. PW5 conducted the post mortem of the deceased Ruksana Begum. According to him the death was due to strangulation which was ante mortem and homicidal in nature. He found ligature in the hymen. Vagina swab tests positive for spermatozoa contain. There is sign of recent penetration.
- 7. PW6 Md Bachu Ali father of the deceased Ruksana Begum stated in his evidence that he suspected that the accused had murdered

Ruksana Begum because accused wanted to marry Momina Bibi elder sister of Ruksana Begum and Momina Bibi was married to some other person. Accused had warned that he cannot be prevented from marrying Ruksana Begum.

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- 8. PW7 stated in his evidence that on the date of incident when he reached paddy field to keep cattle he found a dead body. Later, he confirmed that the dead body was belonged to his niece Ruksana Begum.
- 9. PW8 stated in her evidence that the accused wanted to marry her and that when she got married to some other person accused told that he would marry Ruksana Begum, otherwise he would do some unfair acts.
- 10. Pws 8 and 9 stated in their evidence that they saw a dead body of Ruksana Begum.
- 11. PW10 Sri Nabajit Pathak conducted inquest of the deceased Ruksana Begum and he found ligature mark in the neck and genital exposed which was covered with the sand.
- 12. PW11 Sri Kathiram Barman investigated the case and as he was transferred to some other station charge sheet of the case was filed by SI Lal Chand Sikdar.
- 13. The accused person denied the indictment.
- Mr A.K.Miah learned advocate for the accused submits that PW6 Bachu Ali and PW8 Momina Bibi suspected accused's hands in the alleged incident of murder of Ruksana Begum. PW6 is the father of the deceased Ruksana Begum while PW8 is the elder sister of the deceased Ruksana Begum. According to Mr Miah the evidence of PWs 6 and 8 are not sufficient to hold the accused person guilty for the commission of such a heinous offence.
- 15. On perusal of the evidence of PW6 it reveals that he stated to the I.O. that he did not suspect anyone.

16. On careful examination of the evidence it is seen that the I.O. roped the accused Mohibur Hoque with this case on the basis of oral evidence of the witnesses related to the deceased. The I.O. did not search for any corroborative evidence. During the course of evidence before this court it has not been proved that the accused was in search of an opportunity to take

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revenge of Momina's refusal to marry him. If that be so and the petitioner was scared of that the accused might cause problem to his family than why he did not institute a village 'mel' so that the village would aware of the fact the accused would get a lesson. Not a single incident has been brought before this court to show that the accused was faced some to the deceased or the member of the family of the informant. Our case is based on circumstantial evidence. The circumstantial evidence must form a circle of truth. In our case the evidence falls short to point the guilt of the accused. Since the prosecution has not been able to bring a single circumstance to show that none but the accused had committed rape on Ruksana Begum and thereafter killed her by strangulation, accused person cannot be held guilty. Thus, the accused person deserves benefit of doubt. Thus, the accused person is accordingly acquitted and set at liberty forthwith.

Given under my hand and seal of this Court on this 16th day of October/2015.

Dictated & corrected by me

Sessions Judge, Judge, Sessions

Kokrajhar

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**Appendix** 

The prosecution witnesses are:

1. Mosstt Asiya Bibi ....PW1

<ul><li>7. Md Samser Ali</li><li>8. Mosstt Momina Bibi</li><li>9. Md Yakub Ali</li></ul>	PW6 PW7 PW8 PW8 PW10		
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<u>The Court Witness is</u> :	Nil		

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The exhibited documents:

Ext.1
 Ext.2

3. Ext.2

Judge,

..... FIR

The Defence witness and exhibit: Nil

...... Post Mortem report

...... Inquest report