IN THE COURT OF ADDITIONAL SESSIONS JUDGE, FTC, BISWANATH CHARIALI,

SONITPUR, ASSAM

Spl POCSO Case No. 41/2019

u/s 363/IPC, r/w Section 4 of POCSO Act (Arising out of GR Case No. 590/2019)

State of Assam

-VS-

Sri Chiru Yadav

..... Accused person



Present:

Sri Dipankar Bora, MA, LL.M., AJS,

Special Judge cum Additional Sessions Judge, FTC,

Biswanath Chariali, Sonitpur.

Advocates Appeared:-

For the prosecution: Ms. J. Kalita, learned Addl. P.P

For the defence : Mr. B.

: Mr. B. Das, learned Advocate

Date of recording Evidence: 13.11.2019, 25.11.2019.

Date of Argument

: 25.11.2019.

Date of Judgment

: 25.11.2019.

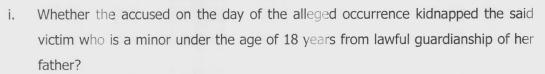
JUDGMENT

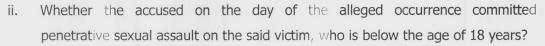
- 1. The prosecution case in brief is that on 17.08.2019, the informant namely Sri Biren Nayak lodged an FIR with the O/C, Biswanath Chariali PS stating inter alia that on that day at about 6 AM, his 16-year-old daughter (name is withheld) went missing from the courtyard of their house. Later, at about 9 AM, one message was received in his son's mobile phone of the mobile phone of his daughter wherein she informed that she was with the accused. He alleged that the accused had kidnapped his daughter.
 - 2. Receiving the same, the police registered a case and investigated the matter. After investigation, the police submitted charge sheet against the accused u/s 366(A) IPC r/w Section 4 of the POCSO Act.
 - 3. The accused in due course appeared before this court to face trial. The copies of the relevant documents were furnished to him. Taking note of the materials on record and upon hearing both the sides on the point of charge, charges against the accused u/s 363 IPC/ Section 4 of the POCSO Act, 2012 were framed, which on read being and explained,

the accused pleaded not guilty.

4. During trial, the prosecution examined the informant as PW 1 and the victim as PW 2. Looking into the evidence of these two vital witnesses, the prosecution declined to examine the remaining witnesses contending that further evidence would not strengthen its case. Taking note of the materials on record and the evidence that had emanated, the prosecution evidence was closed. As no incriminating evidence was found against the accused, his examination u/s 313 CrPC was dispensed with. The case was thereafter, argued by both the sides.

Points for determination





Discussion, Decision and Reasons thereof

- 5. PW 1 is the informant, Biren Nayak. He stated that the incident took place about 2 months back. According to him, his daughter eloped with the accused for which he lodged the FIR. Later, she returned back after which she was married to the accused. Her age was 18 years of that relevant time. He proved the FIR as Ext. 1. In his cross, he stated that as his daughter had a love affair with the accused, she went with him on her own wish.
- 6. PW 2 is the victim. She stated that she had love affair with the accused for which she had eloped with the accused. As her father could not find her out, he lodged the FIR. Later, she returned and married the accused. According to her, the accused is innocent. She proved her statement recorded u/s 164 CrPC as Ext. 2.
- 7. Thus from the consolidated evidence both these vital witnesses, more particularly, from the evidence of PW 2, we do not find any material against the accused to convict him on the offences charged against him. The prosecution has failed to prove its case. As such, I acquit the accused from the offences charged against him and set him at liberty forthwith. His bail bond stands discharged. The provision of Sec. 437-A CrPC is not complied with after taking note of the materials on record. A copy of the judgment be forwarded to the District Magistrate, Sonitpur in compliance with the sec. 365 Cr.P.C. The case is disposed of.

Given under my hand and seal of this court on this the 25th day of November, 2019.

Additional Sessions Judge, FTC,

Addl. Sessions Judge Biswanath Chariall, Summer



ANNEXURE

Witnesses examined by the Prosecution:

PW1-Sri Biren Nayak PW2-Victim.

Exhibits proved by the prosecution witnesses:

Ext. 1- Ejahar

Ext.2- Statement recorded u/s 164 CrPC of the victim

Witnesses examined by the Defence:

None

Documents exhibited by the Defence:

None.

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