## IN THE COURT OF SPECIAL JUDGE ::KOKRAJHAR

Present :- Sri C. Chaturvedy,

SPECIAL CASE NO.36/2019
U/S.366 IPC & R.W Section4 of POCSO Act

STATE OF ASSAM

Vs

Sri Rajka Kisku S/O. Lt. Lohid Kisku Vill- Hasrawbari P.S. Serfanguri Dist. Kokrajhar

...... Accused person.

Appearance: -

Learned Counsel for the State Mr. Manjit Ghose, Special P.P

Learned Counsel for the defence Mr. S. Tudu

Charge framed on 22.11.2019
Evidence recorded on 10.01.2020
Argument heard on 10.02.2020
Judgment pronounced on 14.02.2020

## <u>JUDGMENT</u>

1. The case of the prosecution is that on 13.12.2018 xxx, the grandfather of the victim, lodged an FIR with O/C, Gossaingaon P.S alleging that on 10.12.2018 she had gone to her school but has not

returned since then. He also alleged that he suepection abdcution of her granddaughter.

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- 2. On receipt of the FIR a case under Section 365 of IPC was registered and after completion of the investigation, a charge sheet was laid against the accused Rajka Kisku for commission of offence U/S 365 IPC read with Section 4 of the POCSO Act.
- 3. The accused person was summoned and on his appearance, copies of the relevant documents were furnished to him. The case was transferred to this Court for disposal. After hearing both sides charges under Section- 366 of IPC, R/W Section 4 of POCSO Act was framed against the accused to which he pleaded not guilty and claimed trial.
- 4. In the course of trial prosecution examined 3 (three ) witnesses. At the closure of prosecution evidence, the accused person was examined U/S 313 of the Cr.P.C. The defence plea is of total denial and the accused declined to adduce any evidence.

#### 5. POINTS FOR DETERMINATION:-

- (i) Whether the accused abducted the victim?
- (ii) Whether the accused committed sexual intercourse with the victim?

#### **DECISION AND REASONS:**

- 6. Pw1 xxx the victim, deposed that about 1 year back she was in love relationship with the accused and accordingly after her school she went to Kachugaon to meet the accused. She stayed in the house of paternal Aunt of accused and after 9 days police recovered her from the house of accused. She was produced before the Magistrate for recording of her statement. She was also medically examined at RNB Civil Hospital, Kokrajhar. Exhibit-1 is the statement and Exhibit-1(1) is her signature.
- 7. In cross examination Pw1, victim deposed that her date of birth is 7.7.2001. She deposed that accused had not abducted her and that she went to the residence of his paternal Aunt on her own. She also deposed that the accused did not commit sexual intercourse with her.
- 8. Pw2 xxx, the grandfather of the victim, deposed that about 1 year back victim had gone to School but did not return thereafter and hence, he lodged an FIR. After lodging the FIR the victim was recovered from the residence of accused by police. The victim is presently living with him. Exhibit-2 is the FIR and Exhibit-2(1) is his signature.
- 9. In cross examination Pw2 deposed that he personally does not know from whose house the victim was recovered.

10. Pw3 Sri Hopna Besra deposed that he worked as Adhiar under the complainant and that he does not know anything about this case. He only know that once police had visited the residence of complainant.

11. The evidence on record does not establish that accused did not act which may amount to abduction of the victim. Further, the victim categorically deposed that accused did not commit any sexual intercourse with her. On these evidence, a conviction cannot be sustained.

12. In view of the above, the points for determination are answered in negative.

### <u>ORDER</u>

Accused Sri Rajka Kisku is acquitted of the charges under Section 366 of IPC, R/W Section 4 of POCSO Act and set at liberty forthwith.

His bail bonds shall remain valid for six months.

Given under the hand and seal of this Court on this 14<sup>th</sup> day of February,2020.

Dictated by

Special Judge Kokrajhar Special Judge Kokrajhar

# <u>Appendix</u>

1. Prosecution Exhibits:

Exhibit-1 Statement

Exhibit-2 FIR

2. <u>Defence Exhibit</u> Nil

3. Prosecution Witness

P.W.1 xxx victim

P.W.2 Sri Kameswar Hasda

P.W.3 Sri Hopna Besra

4. <u>Defence Witness</u> Nil

5. <u>Court witness</u> Nil

Special Judge Kokrajhar