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

SONITPUR, ASSAM

Spl. (POCSO)Case No. 09/2017 u/s 366-A/376 IPC r/w Sec. 4 of POCSO Act 2012

(Arising out of G.R. Case No. 127/2017)



State of Assam

-VS-

Sri Nitul Hazarika

..... Accused

Present:

Sri Dipankar Bora, MA, LL.M., AJS, Additional Sessions Judge, FTC,

Biswanath Chariali, Sonitpur.

Advocates Appeared:-

For the prosecution: Mr. J. Bardoloi, learned Addl. P.P For the defence : Mr. R. K. Sarma, learned Advocate.

Date of recording Evidence: 22.05.2018.

Date of Argument : 22.05.2018.

Date of Judgment : 22.05.2018.

JUDGMENT

1. The prosecution case in brief is that on 16.03.2017 the informant namely Sri Dilip Telenga lodged an FIR with the OC Biswanath Chariali PS stating inter-alia that on 14.03.2017 at about 3 PM his 16 year old daughter (name is withheld) went missing from his house. Later the mother of the accused Nitul Hazarika informed him over phone that her son had abducted his daughter.

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/Sec. 4 of the POCSO Act, 2012. The accused in due course appeared before this court to face trial. The copies of the relevant documents were furnished to him. After hearing both the sides on the point of charge, taking note of the materials furnished u/s 173 CrPC, as this court found grounds for presuming that the accused had committed offences punishable u/s 366-A/376 IPC r/w Section 4 of the POCSO Act, 2012, the charges were accordingly framed against him, which on being read over and explained, the accused pleaded not guilty.

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3. During trial, the prosecution examined the informant and the victim as PW 1 and PW 2 respectively. Looking into the evidence as adduced by both these vital witnesses, the prosecution declined to examine the remaining witnesses contending that further evidence would not strengthen the prosecution case. Taking note of the evidence as adduced by these vital witnesses, 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

- Whether the accused on the day of alleged occurrence induced the said victim, who is a minor girl under the age of 18 years to go from her house with intent that she may be or knowing that it is likely that she will be forced to illicit intercourse with another person?
- ii) Whether the accused on the day of the alleged occurrence in his house situated at Gojalbari Village committed rape on the said victim, who is under the age of 18 years?

Discussion, Decision and Reasons thereof

- 4. PW 1 is the informant and the father of the alleged victim. He deposed that the accused is his son-in-law. According to him, about a year back when one day he returned from his work, he did not find his daughter- the victim in his house. As he could not find her out, he lodged the FIR which he proved as Ext-1. Later, he could know that the victim was in the house of the accused and she had love affair with him. Later, he married away his daughter to the accused performing the social rites. He stated that his daughter was 20 years of age at that relevant time.
- 5. Thus from the evidence of PW 1, we find no material against the accused shich shows that the victim was induced by the accused or that he had committed rape on her. Moreover, according to PW 1, his daughter was 20 years of age at that relevant time.
- 6. PW 2, the victim deposed that the informant is her father. She stated that on the day of the said occurrence, she had gone with the accused. She stated that later she was married to him. She stated that she has been living happily with him and she is now pregnant. She further stated that she had gone along with the accused on her own wish and he did not misbehave with her.
- 7. The evidence of PW 2 too does not disclose that she was induced by the accused to go from her house or that the accused had committed rape on her. From the evidence of both these vital witnesses, we find that the prosecution has failed to prove its case. As such, I acquit the accused person from the offences charged against him and set him at

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liberty forthwith. The petition no. 974/18 filed by the accused u/s 437-A CrPC is allowed upon hearing both the sides. His bail bond is extended for a period of six months. A copy of the judgment be forwarded to the District Magistrate, Sonitpur in compliance SESSION the sec. 365 Cr.P.C. The case is disposed of.

Given under my hand and seal of this court on this the 22nd day of May, 2018.

(D. B**BRA)) IF** dditional Sessions Judge, FT

Additional Sessions Judge, FTC, Biswanath Chariali, Sonitpur, Assam.

Addl. Sessions Judge Biswanath Chariali, Sonitpur

ANNEXURE

Witnesses examined by the Prosecution:
PW1- Sri Dilip Telenga
PW2- Victim

Exhibits proved by the prosecution witnesses: Exhibit-1: FIR.

Witnesses examined by the Defence: None.

Documents exhibited by the Defence: None.

Addl. Sessions ludge Biswanath Chanall, Sumpur

