## IN THE COURT OF SPECIAL JUDGE :: :: CACHAR :: SILCHAR. SPECIAL POCSO Case No.34 of 2017.

(U/S 366 IPC /SEC.4 of POCSO Act 12)

Present:- Shri Darak Ullah, AJS,

Sessions Judge,

Cachar, Silchar.

State of Assam	Complainant.
-Versus-	
Javed Ahmed Choudhury	Accused.
Charge framed on:	31.8.17.
P.Ws. examined on:	25.04.19
Argument heard on:-	25.04.19.
Judgment pronounced and delivered on:	25.04.19.

### **Counsel Appeared:**

For the State : Smti. B. Acharjee, Ld. Special Prosecutor

For the Accused : Mr. J.U.Laskar, Advocate.

#### **JUDGMENT**

1. The prosecution case, in brief, is that on 15/04/16 at 1-30 p.m. the accused took away his minor daughter Rita Begum by inducing her in his motor cycle.

Alleging as above the informant lodged the F.I.R. on 23.4.16 before the in charge Jirighat P.S. On receipt of the FIR a case was registered vide Jirighat P.S. Case No.23/16 U/S 366(A) of IPC. Police launched investigation and after completion of investigation charge sheet

was submitted against accused Jabed Ahmed U/S 366(A)/343 of IPC R/w Sec 6 of POCSO Act.

2. The offence U/S 366 (A) IPC and Sec.6 of POCSO Act being exclusively triable by the Court of Sessions and Special Judge, learned SDJM(M) Lakhipur committed the case and accordingly this Special (POCSO) case was registered. In due course, upon appearance of the accused person and after hearing both sides my learned predecessor framed formal charge U/S 366 IPC and U/s 4 of POCSO Act 2012 against accused Javed Ahmed Chodhury. The charge having been read over and explained, the accused person pleaded not guilty and claimed to be tried.

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

- (1) Whether the accused kidnapped the victim with intent that she might be compelled or knowing that it to be likely that she would be compelled to marry against her will or that she might be forced or seduced to illicit intercourse, as alleged?
- (2) Whether the accused committed penetrative sexual assault with the victim, as alleged ?
- 4. In support of the case the prosecution examined as many as 2 (two) witnesses including the informant and the victim. As no incriminating materials appears to be found against the accused during evidence the recording of statement of the accused U/S 313 Cr.P.C. is dispensed with.
- 5. I have gone through the entire evidence on record and have also heard the ld.counsel for both the parties.

### **DISCUSSIONS, DECISIONS AND REASONS THERE-OF**

6. Now, let me discuss the evidence below to see whether the prosecution has succeeded to bring home the charges against the accused person as mentioned in point for determination.

7. P.W.1 Rita Begum Laskar being the victim is the prime witness in this case. She deposed without implicating the accused that on the date of occurrence his father scolded her for which she left the house for the house of her brother Noju Ahmed. Her father out of mis-understanding of facts lodged the FIR against the accused. Thereafter police had recovered her.

In her cross examination she categorically deposed that she was recovered by her father from the house of her brother and thereafter her father took her to the police station. The accused had not kidnapped her.

- 8. PW-2, Ali Ahmed who is the informant and father of the victim deposed that on the date of occurrence when he reached at his home at about 12 O'clock his daughter Rita Begum was found missing in the house. As the accused Jabed was in visiting terms with their house as such on being suspected he lodged an FIR against the accused. He further deposed that thereafter his daughter was married to the accused and presently she is living with the accused.
- 9. Appreciating the evidence on record it comes to light that the informant PW-2 lodged an FIR against the accused when his daughter PW-1 was found missing out of suspicion as accused was in visiting terms with their house. PW-1 victim did not implicate the accused in any way rather she gave a clean chit to the accused by categorically stating in her cross examination that accused had not kidnapped her. She also did not utter anything against the accused person to rope in him in the alleged offence of crime. So, it appears that both the prime witnesses i.e, victim and the informant did not at all implicate accused person in the alleged offence of crime.
- 10. Upon consideration of all above the aspects, I hold that the

prosecution has miserably failed to prove its case U/s 366 IPC /SEC.4 of POCSO Act 2012 against accused.

11. In view of the above, accused is held not guilty and stands acquitted of the charge leveled against him and he is set at liberty forthwith. Bail bond stands discharged.

Judgment is pronounced and delivered in the open court on this the 25th April, 2019.

Dictated and corrected by

Special Judge, Cachar, Silchar. ( D. Ullah ) Special Judge, Cachar, Silchar.

Transcribed by K. Bhattacharjee, Stenographer Gr. I.

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## **APPENDIX**

(A) PROSECUTION WITNESSES: -

P.W. 1 — Rita Begum Laskar

P.W. 2 – Ali Ahmed

(B) <u>DEFENCE WITNESSES</u>: - NIL.

(C) PROSECUTION EXHIBITS: -

Ext. 1 — Statement of victim

Ext. 2 – FIR

(E) <u>DEFENCE EXHIBITS</u>: - NIL.

(F) COURT EXHIBITS: - NIL

(G) EXHIBITS PRODUCED BY WITNESSES: - NIL.

Special Judge, Cachar, Silchar.