IN THE COURT OF SPECIAL JUDGE :: :: :: CACHAR. Spl.(POCSO) Case No.48 of 2019

(U/S 366 IPC and Sec. 6 of POCSO Act)

Present:- Shri Darak Ullah, AJS,

Special Judge,

Cachar, Silchar.

State of AssamComplainant.

Abdul Karim Uddin Laskar.....Accused person.

Charge framed on:-.....5/11/19

P.Ws. examined on:-.....26/11/19

Argument heard on:-26/11/19.

Judgment pronounced and delivered on:-.....26/11/19.

<u>Counsel Appeared:</u>

For the State : Smti. B.Acharjee, Id.Spl. PP
For the Accused : Mr.J.U. Laskar, Ld.advocate.

JUDGMENT

1. The prosecution case, in brief, is that the informant lodged an FIR with the O/C Borkhola P.S. stating the facts that on 04.06.17 at about 4 a.m. the accused persons Karim Uddin Laskar and Ramjan Ali Laskar trespassed in to the dwelling house of the informant and kidnapped the minor daughter of the informant. Thereafter on search the victim was found in the house of the accused persons. The accused persons did not hand over the victim to the informant rather abused the informant and

drove him out from his house.

- 2. On receipt of the FIR, a regular PS case was registered vide Borkhola P.S. Case No.137/19 U/S 366 A / 34 IPC. Police started investigation and during the course of investigation the statement of the victim girl was recorded U/S 164 Cr.P.C. The victim girl was also sent to SMCH, Silchar for medical examination. The investigating officer visited the place of occurrence and prepared a rough sketch map. He also recorded statement of the witnesses and subsequently after completion of investigation submitted charge sheet against present accused person Abdul Karim Uddin Laskar only U/S 366 IPC read with Section 6 of POCSO Act.
- 3. The offence u/s Sec.6 of POCSO Act being exclusively triable by the Court of Special Judge, this case was transferred to this court by the Ld.Judicial Magistrate, 1st class, Cachar, Silchar and the same is taken up for trial by this court. In due course, upon appearance of the accused and after hearing both sides formal charge U/S 366 IPC and Section 6 of POCSO Act was framed by this court against the accused person. The charges having been read over and explained the accused pleaded not guilty and claimed to be tried.
- 4. Now, in the present case the points to be decided are :-
- (i) Whether the accused person on 4.06.2017 at about 4 a.m. kidnapped the victim- daughter of the informant, with intent that she might be compelled or knowing it likely that she would be seduced or forced to sexual intercourse, as alleged?
- (2) Whether the accused person committed aggravated penetrative sexual assault upon the victim, as alleged?

- 5. During trial, prosecution side examined two witnesses i.e, the victim and informant as PW.1 and PW.2. As per submission of Id. P.P. the evidence of the prosecution side is closed. 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. Defence declined to adduce any evidence.
- 6. 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

- 7. 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.
- 8. PW.1 is the victim who is the prime witness of this case and she deposed in her deposition that about a year ago, the occurrence took place. She was in love affairs with the accused Abdul Karim. She further deposed that her father intends to give marriage with some other boy to which she was not willing and as such she eloped with the accused. Thereafter her father lodged the FIR and he assured that he would give her marriage with the accused person and thereaftr herself and the accused appeared before the Borkhola PS. Police sent her to SMCH, Silchar for her medical examination and to Court wherein her statement U/S 164 Cr.P.C. was recorded. She further deposed that her parents gave her marriage with the accused person and presently, she has been staying with the accused. At the time of occurrence, she was a student of higher secondary 2nd year.

In her cross examination she stated that at the time of occurrence, she was aged about 18 years 6 months. She went with the accused out of her own accord and she is having one child from the side of the accused and residing with the accused in his house as his wife. She further deposed that her parents socially gave her marriage with the accused after the incident.

- 9. PW.2 Komor Uddin Mazumder who is the informant of the case deposed that the occurrence took place about 2 years ago and at that time, her daughter, the victim was a student of higher secondary 2nd year. He further deposed that as his daughter had not returned to his home and as such he lodged the FIR before Borkhola PS. He further deposed that later on,he came to know that her daughter due to her love affairs eloped with the accused and then PW.2 told his daughter that he would give her marriage with the accused. He further deposed that they gave marriage of the victim with the accused. He also deposed that in the meantime, the victim gave birth to a female child and presently she is living peacefully with the accused as his wife. In his cross examination PW.2 stated that at the time of occurrence the age of his victim daughter was 18 years and 6 months.
- 10. So, from the evidence of prime witnesses i.e. the victim PW.1 and the informant PW.2 it appears that they did not at all implicate the accused person in the alleged offence of crime U/S 366 of IPC and Sec. 6 of POCSO Act. Rather, it is cropped up from their evidence that while the victim was major she eloped with the accused out of love affairs and subsequently they got married and presently they have been living as husband and wife happily and they are blessed with a female child.

- 11. Upon consideration of all the above aspects, I hold that the prosecution has miserably failed to prove its case U/S 366 IPC and Sec.6 of POCSO Act against accused person –Abdul Karim Uddin Laskar.
- 12. In view of the above, accused person is not held guilty and stand acquitted of the charge leveled against him and he is set at liberty forthwith. Bail bond stands discharged.

 $\mbox{ Judgment is pronounced and delivered in the open court} \\ \mbox{ on this the 26th day of November, 2019.}$

Dictated and corrected by

Stenographer

Special Judge, Special Judge, Cachar, Silchar. Cachar, Silchar. Transcribed by K. Bhattacharjee,

IN THE COURT OF SPECIAL JUDGE, CACHAR, SILCHAR Spl.(POCSO) Case No. 48 of 2019.

APPENDIX

- (A) PROSECUTION WITNESSES: -
- P.W. 1 victim
- P.W. 2 Komor Uddin Laskar
- (B) <u>DEFENCE WITNESSES</u>: NIL
- (C) PROSECUTION EXHIBITS: -
- Ext.1 Statement
- Ext. 2 FIR
- (E) <u>DEFENCE EXHIBITS</u>: NIL.
- (F) <u>COURT EXHIBITS</u>: NIL.
- (G) EXHIBITS PRODUCED BY WITNESSES: NIL.

Special Judge,

Cachar, Silchar.