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

SONITPUR, ASSAM

Spl. (POCSO) Case No. 48/2018

u/s 363/376/34 IPC r/w Sec. 4 of POCSO Act, 2012

State of Assam

-VS-

- 1. Sri Ram Orang
- 2. Sri Sobinash Orang

..... Accused persons

Present:

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

Special Judge,

Biswanath Chariali, Sonitpur.



Advocates Appeared:-

For the prosecution: Mr. J. Bardoloi, learned Addl. P.P : Mr. P. Hazarika, learned Advocate For the defence

Date of recording Evidence: 27.03.2019. Date of Argument : 27.03.2019. Date of Judgment : 27.03.2019.

JUDGMENT

- 1. The prosecution case in brief is that on 19.09.2018 the informant namely, Smti Premeswari Sawashi lodged an FIR with the OC, Gingia PS stating inter alia that the same day at about 1 PM when her daughter (name is withheld) and her sister-in-law were on their way to her mother's house, the accused Ram Orang suddenly appeared and snatched away her daughter with him and fled from the place of occurrence on his bicycle.
- 2. Receiving the same, the police registered a case and investigated the matter. After investigation the police submitted charge-sheet against the two accused persons u/s

Addl. Sessions Judge. After appearance of the accused persons before this court, taking note of the materials furnished u/s 173 CrPC, as this court found ground. persons had committed offences u/s 363/34 IPC, the charges were accordingly framed against them, which on being read over and explained, they pleaded not guilty. Further as from the materials on record it could be presumed that the accused Sobinath Orang had committed offences u/s 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, he pleaded not

Riswanath Chariali,

guilty.

4. During trial, the prosecution examined the informant as well as the alleged victim. 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 its case. Taking note of the materials on record, the prosecution evidence was closed. As no incriminating evidence was found against the accused persons, their examinations u/s 313 CrPC were dispensed with. The case was thereafter argued by both the sides.

Points for determination

- i) Whether the accused persons on the day of the alleged occurrence, in furtherance of their common intention kidnapped the said victim from lawful guardianship of her mother, Smti Premeswari Sawashi?
- ii) Whether the accused Sobinash Orang on the day of the alleged occurrence committed rape on the said victim?
- iii) Whether the said accused on the day of the said occurrence committed penetrative sexual assault on the said victim, who is below the age of 18 years?

Discussion, Decision and Reasons thereof

- 5. PW 1 is the informant Smti Premeswari Sawashi. She stated that on the day of the said occurrence when she returned from her work place, she did not find her daughter-the victim in their house. She searched for her daughter but as she could not find her out, she lodged the FIR, which she proved that as Ext. 1. She stated that her daughter fled with the accused Sobinash and got married to him. According to her, the age of her daughter was 19 years at that relevant time. She stated that her daughter had gone with the accused on her own wish and she had lodged the FIR out of misunderstanding. She further stated that as the people of her village named the accused Ram Orang to be involved in the incident, she had named him in the Ext.1.
- 6. PW 2 is the victim. She corroborated to her mother-PW 1 and stated that she had on her own wish had gone with the accused and got married to him. She categorically stated that the accused is innocent and her mother had lodged the FIR out of misunderstanding. Thus from the evidence of both these vital witnesses, more particularly, from the evidence of PW2, we do not find any material against the accused persons to show that they had abducted the victim or any of the accused had committed rape on her. The prosecution has failed to prove its case. As such I acquit the accused persons from the offences charged against them and set them at liberty forthwith. The provision of Sec. 437-A CrPC is not complied with taking note of the evidence 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

J.

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disposed of.

Given under my hand and seal of this court on this the 27th day of March, 2019.

SONITAUR SESSION

(D. BORA)

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

Addl. Sessions Judge Biswanath Chariali, Sonitpur

ANNEXURE

Witnesses examined by the Prosecution:

PW1- Smti Premeswari Sawachi

PW2- Victim



Exhibits proved by the prosecution witnesses:

Ext.1- FIR

Witnesses examined by the Defence.

None

Documents exhibited by the Defence:

None.

Addl. Sessions Judge Biswanath Chariali, Sonitpur