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

SONITPUR, ASSAM

Spl. POCSO No. 33/2018

U/S 323/366/376 of IPC & Section 4 of POCSO Act,2012 (Arising out of PRC No. 200/2018)

State of Assam

-VS-

Sri Akash Mazi

..... Accused person

Present:

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

Additional Sessions Judge, FTC,

Biswanath Chariali, Sonitpur.

Advocates Appeared:-

For the prosecution: Ms. J. Kalita, learned Addl. P.P

For the defence

: Mr. P. Hazarika, learned Advocate

Dates of recording Evidence: 06.03.2020.

Date of Argument

: 06.03.2020.

Date of Judgment

: 06.03.2020.

JUDGMENT

- 1. The prosecution case in brief is that on 07.07.2018 the informant namely Arjun Tamaria lodged an FIR with the OC, Gohpur PS stating inter alia that on the same day at about 4 AM, the accused Akash Mazi forcibly entered into his house and after threatening them with a knife, kidnapped his 15-year-old daughter (name is withheld). When they tried to resist him, the accused took away the girl after beating him and his wife.
- 2. Receiving the same, the police registered a case and investigated the matter. After investigation, the police submitted charge sheet against the accused u/s 448/366(A)/323/506 IPC r/w Section 4 of the POCSO Act 2012.
- 3. The accused in due course, appeared before this court to face trial. After furnishing of the copies of the relevant documents and upon 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 u/s 323/366/376 IPC r/w Section 4 of the POCSO Act, the charges were accordingly framed against him, which on being read over and explained, the accused pleaded not guilty.
- 4. During trial, the prosecution examined the informant as PW 1 and the victim as PW 2. Looking into the evidence of both these vital witnesses, the prosecution declined to examine the remaining witnesses contending that further evidence would not strengthen

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its case. As no incriminating evidence was found against the accused, the prosecution evidence was closed and his examination u/s 313 CrPC was dispensed with. The case was thereafter argued by both the sides.

Points for determination

- i. Whether the accused person on the day of the alleged occurrence voluntarily caused hurt to the informant Arjun Tamaria and his wife Renu Tamaria?
- ii. Whether the accused on the day of the alleged occurrence abducted the victim with intent that she may be forced to illicit intercourse or knowing it to be likely that she will be forced to illicit intercourse?
- iii. Whether the accused on the day of the alleged occurrence committed rape on the victim?
- iv. Whether the accused on the day of the alleged occurrence committed penetrative sexual assault on the victim who was below the age of 18 years?

Discussion, Decision and Reasons thereof

- 5. PW 1 is the informant, Arjun Tamaria. He stated that about two years back his daughter-the victim disappeared from their house. Later, he could learn that the girl had love affair with the accused. So out of suspicion, he lodged the Ejahar against the accused, which he proved that as Ext. 1. Later, he found the girl. According to him, he lodged the case out of misunderstanding and the accused is innocent. He stated that his daughter was 20 years of old at that relevant time.
- 6. PW 2 the victim stated that on the day of the occurrence she went out with the accused and same was reported by someone to her father. Her father thereafter, lodged the Ejahar. When she returned, she could know about the real fact. She stated that the accused did not misbehave her. She proved her statement recorded u/s 164 CrPC as Ext. 2. She too stated that the accused is innocent.
- 7. Thus from the evidence of both these vital evidences, we do not find any incriminating evidence against the accused to convict him on the offences charged against him. The prosecution has failed to proved its case. As such I acquit the accused from the offences charged against him and set him at liberty forthwith. His bail bond stands discharged. Taking note of the evidence that have emanated, the provision of Sec. 437-A CPC is not complied with. A copy of the judgment be forwarded to the District Magistrate, Sonitpur in compliance with the sec. 365 Cr.P.C. The case is disposed of.

Given under my hand and seal of this court on this the 6th day of March, 2020.

Additional Sessions Judge, FTC,

Biswanath Chariali, Sonitpur, Assam.

ANNEXURE

Witnesses examined by the Prosecution:

PW1- Sri Arjun Tamaria, Informant PW2- Victim

Exhibits proved by the prosecution witnesses:

Ext.1- Ejahar

Ext.2- Statement recorded u/s 164 CrPC.

Witnesses examined by the Defence:

None

Documents exhibited by the Defence:

None.

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