CAUSE TITLE POCSO Case No. 46/16

Informant: Sri Rajen Munda,

S/o- Late Jagru Munda, R/o- Tetunbari Gaon,

PS- Moran,

District- Dibrugarh.

Accused: Sri Babatu Munda,

S/o- Sri Ramesh Munda, R/o- Bipon Habigaon,

PS- Demow,

District- Dibrugarh.

ADVOCATES:-

For the State: Mrs. Runumi Devi, learned Public Prosecutor.

For the Defence: Mr. RS Ekka, learned Advocate.

IN THE COURT OF THE SESSIONS JUDGE: DIBRUGARH

Present: Smti. SP Khaund, (MA Economics, LLB),

Sessions Judge, Dibrugarh.

> POCSO Case No. 46/16 G.R. Case No. 510/16

> > State of Assam

-Vs-

Sri Babatu Munda

Charges: Under Section 366-A IPC.

Date of evidence on : 25-05-17.

Date of argument : 25-05-17.

Date of Judgment : 25-05-17.

JUDGMENT

- 1) The prosecution case as portrayed by the First Information Report is that on 18-02-16, the victim X went amiss. Then the victim's father Sri Rajen Bhumij lodged an ejahar with the police. The police registered a Moran PS Case No. 54/16 under Section 366-A IPC and SI Dharmeswar Borgohain embarked upon the investigation. He recorded the statements of the witnesses and recovered the victim. He forwarded the victim for medical examination and he also prepared Sketch-Map of the place of occurrence. After finding prima facie materials against the accused, he submitted the Charge-Sheet.
- 2) On appearance of the accused, charge was framed under Section 366-A IPC. The accused abjured his guilt and claimed innocence.

POINT FOR DETERMINATION:

- 3) On the backdrop of the rival contention proponed at the bar, the following point is apposite for decision:
 - 1. Whether the accused induced the victim X to go with him with intent that she may be forced to illicit intercourse?

DECISION THEREON AND THE REASONS FOR THE DECISION:

4) The complainant testified as PW-1 that about a year ago, his daughter went missing from his house. Then they searched for the victim. The accused is also related to him and is his nephew. When they could not find their

daughter, he lodged the ejahar Ext. 1 where Ext. 1(1) is his signature. Police recovered his daughter. They took custody of their daughter and brought their daughter to their house, but after a few days, his daughter again went along with the accused person.

- 5) Similarly, the complainant's wife Smti. Nami Munda also testified as PW-2 that about a year ago, her daughter eloped with the accused and then a case was lodged and her daughter was recovered. She brought back her daughter to her house, but her daughter again went away with the accused person. Her daughter is at present 17/18 years old.
- 6) The victim X testified as PW-3 that the accused is her husband and the complainant is her father. When she eloped with the accused, her father lodged this case. The police recovered her from the accused person and handed her over to her parents. She returned to her paternal house and again after a few days, she eloped with the accused.
- 7) If we evaluate the evidence, it is clear that the victim eloped with the accused not once, but twice. The victim went with the accused on her own volition. As the victim eloped with the accused twice, he cannot be fastened with the guilt of kidnapping or abducting the victim. Moreover, the victim stated that she is 21 (twenty-one) years at present and the incident took place on 18-02-16. What can be deciphered is that the victim was a major and she went with the accused on her own volition.
- 8) There is no evidence against the accused. The prosecution failed to prove that the accused induced the victim to go with him or kidnapped the victim or forcefully committed sexual assault on the victim. Thereby the accused is acquitted from the charges under Section 366-A IPC on benefit of doubt and is set at liberty forthwith.

Judgment is signed, sealed and delivered in the open Court on the 25th day of May, 2017.

Sessions Judge, Dibrugarh

Certified that the judgment is typed to my dictation and corrected by me and each page bears my signature.

APPENDIX

List of witnesses:

- 1. PW-1 Sri Rajen Munda;
- 2. PW-2 Smti. Nami Munda; and
- 3. PW-3 The victim X.

List of Exhibits:

1. Ext. 1 Ejahar.

List of witnesses and Exhibits for defence- None

Transcribed and typed by:-Bhaskar Jyoti Bora, Steno.

Sessions Judge, Dibrugarh