IN THE COURT OF ADDITIONAL SESSIONS JUDGE, FTC

SONITPUR, ASSAM

Spl POCSO No. 46 of 2018

U/S 366/376 of IPC, r/w Section 4 of POCSO Act, 2012

State of Assam

-VS-

Sri Sujit Kandapan

..... Accused person



Present:

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

Special Judge,

Additional Sessions Judge, FTC,

Biswanath Chariali, Sonitpur.

Advocates Appeared:-

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

For the defence

: Mr. P.P. Borah, learned Advocate

Dates of recording Evidence: 25.09.2019, 13.02.2020

Date of Argument

: 13.02.2020.

Date of Judgment

: 13.02.2020.

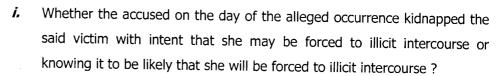
<u>JUDGMENT</u>

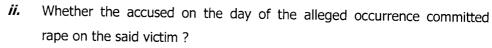
- 1. The prosecution case in brief is that on 04.08.2018 the informant namely, Sri Om Prakash Thakur lodged an 'ejahar' with the I/C Balichang Police Outpost under Biswanath Chariali Police Station stating inter alia that on that day about 2 PM, the accused had taken away his 17-year-old daughter (name is withheld).
- 2. Receiving the same, the police registered a case and investigated the matter. After investigation, the police submitted charge sheet against the accused person u/s 366/376 IPC, r/w Section 4 of the POCSO Act, 2012.
- 3. The accused person in due course, appeared before this court to face trial. The copies of the relevant documents were furnished to him. 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 has committed offences u/s 366/376 IPC, R/W Section 4 of the POCSO Act, 2012, the charges were accordingly framed against him which on being read over and explained, the accused pleaded not guilty.

Spl POCSO No. 46/2018

4. During trial, the prosecution examined four witnesses in all. Looking into the evidence as adduced by all these witnesses, more particularly, the evidence of the victim-PW 4, 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, his examination u/s 313 CrPC was dispensed with. The case was thereafter argued by both the sides.

Points for determination





Whether the accused on the day of the alleged occurrence committed penetrative sexual assault on the victim who is below the age of 18 years?

Discussion, Decision and Reasons thereof

- 5. PW 1-Sri Prakash Ray stated that about one year back, on a day at about 1/30 to 2 PM he was playing in the field near the house of the informant, Om Prakash Thakur. There the informant told to him that his daughter has been missing and he should help him in searching her out. They searched for the girl but could not find her out. He has no other knowledge about the occurrence. According to him, the girl was 18 years old.
- 6. PW 2-Sri Naiachi Biver @ Lachit Biver stated that he could learn about the missing of the victim from the informant. Later, he could learn that the girl had eloped with the accused.
- 7. PW 3-Sri Om Prakash Thakur, who is the informant. He stated that in the month of August, of 2018 one day his daughter went missing. As he could not find her out, he lodged the 'ejahar', which he proved as Ext. 1. Later, when the victim returned, he could know from her that the accused did not kidnap her. He stated that the accused is innocent and he had lodged the Ext. 1 out of misunderstanding.
- PW 4 is the victim. She corroborated her father and stated that her father had lodged the 'Ejahar' against the accused out of suspicion. According to her, she did not go with the accused on that day and the accused is innocent. She stated that she was 19 years old at that relevant time.
- 9. Thus from the evidence of all these witnesses, more particularly from the evidence of the victim-PW4, we do not find any material against the accused to convict him on the offences charged against him. The prosecution has failed to prove its case. As such I acquit

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Spl POCSO No. 46/2018

the accused and set him at liberty forthwith. His bail bond stands discharged. The provision u/s 437-A CrPC is not complied with after 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 disposed of.

Given under my hand and seal of this court on this the 13th day of February, 2020.

(D. BORA)

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

HAIL EASSIARS JUANA

Bishanam Charlan, Sunigul



ANNEXURE

Witnesses examined by the Prosecution:

PW1- Sri Prakash Ray

PW2- Sri Naiachi Biver @ Lachit Biver

PW3- Sri Om Prakash Thakur, Informant

PW4- Victim



Exhibits proved by the prosecution witnesses:

Ext.1- FIR

Ext. 2- Statement of the victim recorded u/s 164 CrPC.

Witnesses examined by the Defence:

None

Documents exhibited by the Defence:

None.

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