# 

## Special (POCSO) Case No. 24/2019.

U/S - 366(A) of IPC read with Sec. 8 of POCSO Act,2012.

#### State of Assam

- Versus -

Rahul Rabidas

...... Accused.

PRESENT: Shri D. Bhattacharjee, Special Judge, Hailakandi.

### Appearance and particulars :-

For the State

:- Sri U.K. Das, Ld. Public Prosecutor.

For the accused person

:- Sri R.A. Laskar, Ld. Advocate.

Date of recording evidence

:- 24.01.2020.

Date of recording statement u/s 313, CrPC :- 30.01.2020.

Date of Argument

:- 30.01.2020.

Date of Judgment

:- 30.01.2020.

### JUDGMENT

The prosecution case, in brief, is that on 16.07.2019 the informant Sri Dilip Rabidas lodged an ejahar with the O/c of Lala Police Station alleging that on 15.07.2019 at about 1.30 PM while himself and his wife were not in the house, their minor daughter i.e. the victim went missing and accordingly, they made vigorous search for her but could not trace her out but subsequently, he came to know that the accused person Rahul Rabidas kidnapped the victim.

Contd....P/2.

- 2. On receipt of the ejahar, the same was registered as Lala PS Case No. 382/2019 under Sec 366 IPC and during investigation, police visited the place of occurrence, recorded statements of witnesses, got the victim medically examined and also got her statement recorded under Sec. 164, CPC and after completion of investigation submitted charge sheet against the accused person Rahul Rabidas under Sec. 366 IPC read with Sec. 8 of the POCSO Act
- 3. On appearance of accused person Rahul Rabidas, copies of relevant materials in terms of Sec. 207 of the CrPC were furnished to him.
- After hearing the Ld. Public Prosecutor and the Ld. Defence Counsel and after perusal of materials available on record, having found sufficient grounds for presuming that the accused person has committed the offence, the formal charges have been framed against the accused person Rahul Rabidas under Sec. 366(A) of the IPC read with Sec. 8 of the POCSO Act. The charges so framed were read over and explained to the accused person, to which he pleaded not guilty and claimed to be tried. Hence, the trial.
- In the instant case, the prosecution has examined the victim and her father, the informant only. Thereafter, on submission of Ld. Public Prosecutor and the Ld. Defence Counsel, the prosecution evidence was closed. The accused person is examined under Sec. 313, CrPC, wherein he has denied the allegations levelled against him by the prosecution. The defence did not adduce any evidence.
- 6. Heard argument of both sides. Perused the record.
- 7. <u>POINTS FOR DETERMINATION</u> :-
- (i) Whether the accused person on 15.07.2019 at about 1.30 PM at village Chandrapur Pt. I under Lala PS induced the victim, the minor daughter Contd.....P/3.



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of the informant to go with him with intent that she may be or knowing that she will be forced or seduced to illicit intercourse and thereby, the accused has committed the offence punishable under Sec. 366(A) of the IPC?

(ii) Whether the accused person sexually assaulted the victim, the minor daughter of the informant and thereby, the accused has committed the offence punishable under Sec. 8 of the POCSO Act,2012?

## **DISCUSSION, DECISION AND REASONS THEREOF:**

- The victim (PW.1) has deposed that she had love affair with the accused and as such, on the relevant day she eloped with the accused without informing her father and got married him and since then, she has been living with the accused happily as his wife and at the relevant time, she was aged 18 years. It is further deposed by the victim that out of misunderstanding, her father lodged the case against the accused. During investigation, police got her medically examined and also got her statement recorded by Magistrate vide Ext. 1.
- on the relevant day his daughter i.e. the victim went missing but he could not trace her out and accordingly, he lodged the case vide Ext. 2 against the accused on suspicion but subsequently, he came to know that his daughter had love affair with the accused and as such, she on her own will, eloped with the accused and at that time, the victim was 18 years old and presently, the victim is residing with the accused as his wife happily and as such, he has got no accusation against the accused.
- 10. In the instant case, though the informant, who is the father of the victim, has penned implication against the accused in the ejahar but in the

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evidence the victim has deposed that at the relevant time, she eloped with the accused on her own will without informing her father and got married him and at the relevant time, she was aged 18 years and presently, she is living with the accused as his wife happily. So also, the informant himself in his evidence corroborating the victim, has stated that without informing him, the victim eloped with the accused out of love affair and he lodged the case against the accused on suspicion. It is further made clear by the informant that at the relevant time, the victim was major and presently, she is living with the accused happily as husband and wife and hence, he has got no accusation against the accused. When the victim herself, whose evidence bears much significance to decide such type of cases as well as her father i.e. the informant, has not supported the prosecution case, I do not find any cogent reason to hold the accused person guilty for the commission of the offence, alleged.

- In fine, the accused person Rahul Rabidas is acquitted of the offence charged under Sec. 366(A) of the IPC read with Sec. 8 of the POCSO Act. Set him at liberty forthwith.
- **12.** The bail bond of the accused stands discharged.

The judgment is delivered today, on this the 30th day of

January, 2020.

Special Judge, Hailakandi.

<u>Dictation is taken and transcribed by Baharul Islam Choudhury,</u>
<u>Stenographer Grade I.</u>

61.20.

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### Appendix :-

### Oral evidences :-

PW. 1, the victim,

PW. 2, the informant.

### Documentary evidence :-

Ext. 1, Statement of the victim recorded under Sec. 164, CrPC.

Ext. 2, the Ejahar.

Defence did not adduce any evidence.

Special Judge, Hailakandi