

Special (POCSO) Case No. 27/2019.

(U/S - 366 (A) of IPC read with Sec. 4 of POCSO Act, 2012.)

State of Assam

- Versus -

Sahishnu Rabidas Accused.

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

Appéarance and particulars :-

For the State :- Sri U.K. Das, Ld. Public Prosecutor.

For the accused person :- Sri G.H. Laskar, Ld. Advocate.

Date of recording evidence :- 07.02.2020 & 24.02.2020.

Date of recording statement u/s 313, CrPC :- 28.02.2020.

Date of Argument :- 28.02.2020.

Date of Judgment :- 28.02.2020.

JUDGMENT

- The prosecution case, in brief, is that on 02.06.2019 the informant Smt. Mona Rabidas lodged an ejahar with the O/C, Lala Police Station alleging that on 01.06.2019 at about 11 PM her daughter i.e. the victim was found missing in the house and accordingly, she made vigorous search for the victim but could find her out and it was her strong belief that the accused Sahishnu Rabidas kidnapped her daughter.
- 2. On receipt of the ejahar, a case Lala PS case No. 283/2019 under Sec 366 IPC was registered and during investigation, police visited the place of occurrence, drew up rough sketch map thereof, recorded statements of



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witnesses, got the victim medically examined, also got her statement recorded by Magistrate under Sec. 164, CPC and after completion of investigation submitted charge sheet against the accused person Sahishnu Rabidas under Sec. 366 of IPC read with Sec. 4 of the POCSO Act

- 3. On appearance of accused person Sahishnu 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 Sahishnu Rabidas under Sec.366(A) of the IPC read with Sec. 4 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 mother, 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 and stated that the instant case was filed falsely against him. The defence did not adduce any evidence.
- **6.** Heard argument of both sides. Perused the record.

POINTS FOR DETERMINATION:

(i). Whether the accused person 01.06.2019 at about 11 PM at village Singala under Lala PS induced the victim, the daughter of the informant, to go with him with intent that she may be for knowing that she will be forced or seduced to illicit intercourse and thereby, the accused has committed the offence punishable under Sec. 366(A), IPC?



(ii). Whether the accused person committed penetrative sexual intercourse on the victim, the minor, and thereby, the accused has committed the offence punishable under Sec. 4 of the POCSO Act, 2012?

DISCUSSION, DECISION AND REASONS THEREOF:

- The PW. 1, the victim has deposed that she had love affair with the accused and one day, she eloped with him and her mother lodged the case. It is also deposed by the victim that at the relevant time, she was major and as such, she married the accused and at present, she is living with the accused as his wife. During investigation, police got her medically examined and also got her statement recorded by Magistrate vide Ext. 1, wherein Ext. 1(1) is her signature.
- The PW. 2, Smti. Mona Rabidas, the informant, has deposed that at the relevant time her daughter, the victim went missing from the house and on inquiry, she came to know that her daughter went to the house of accused and as such, she filed the case but subsequently, she learnt that her daughter had love affair with the accused and as such, she went to the house of accused and married him and at the relevant time of incident, the victim was major.
- g. In the instant case, the most vital witness is the victim girl and from her evidence reveals that at the time of incident, she was major and she had love affair with the accused and as such, she went to the house of the accused and married him. The informant, who is the mother of the victim has also testified that being major, the victim went to the house of accused out of love affair and married him. As such, when the victim herself, whose evidence bears much significance to decide the instant case, 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.
- prove its case against the accused person and thus, **the accused person**Contd.......P/4.



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Sahishnu Rabidas is acquitted of the offence charged under Sec. 366(A) of the IPC read with Sec. 4 of the POCSO Act. Set him at liberty forthwith.

11. The bail bond of the accused stands discharged.

12. The Special (POCSO) Case is disposed of accordingly.

The judgment is delivered today, on this the 28th day of

February, 2020.

Special Judge, Hailakandi.

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

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Appendix :-

Oral evidences :-

PW. 1, the victim

PW. 2, Smti. Mona Rabidas.

Documentary evidences :-

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

Defence did not adduce any evidence.

Special Judge, Hailakandi