

IN THE COURT OF THE SPECIAL JUDGE ::::::: HAILAKANDI

Special (POCSO) (T 1) Case No. 12/2017

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

State

- Versus -

Ajay DasAccused.

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 K.U. Laskar, Ld. Advocate.

Dates of recording evidence :- 29.06.2018.

Date of recording statement u/s 313, CrPC : - 02.07.2018.

Date of Argument : - 02.07.2018.

Date of Judgment : - 02.07.2018.

JUDGMENT

The prosecution case, in brief, is that on 02.09.2017 the informant Jaymohan Tripura lodged an ejahar with the O/C, Katlicherra Police Station alleging that his daughter, the victim has been prosecuting her studies staying in the rented house in the village Ganjakhuri, Katlicherra alongwith other students and on 1.9.2017 at about 1.30 PM the victim

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came out from the rented house to go to the own house but she did not reach the house and accordingly, on search, they could not find out the victim but the informant came to know that the accused Ajay Das kidnapped his daughter, the victim.

2. On receipt of the ejahar, the same was registered as Katlicherra Police Station Case No. 127/2017 under Sec. 366 of the IPC read with Sec. 4 of the POCSO Act and accordingly, police started investigation of the case.

3. During investigation, police visited the place of occurrence, drew up rough sketch map of the place of occurrence, recorded statements of witnesses including the informant, got the victim medically examined and also got her statement recorded by the Magistrate and after completion of investigation having been found prima facie case laid the charge sheet against the accused person Ajay Das under Sec. 366 of IPC read with Sec. 4 of the POCSO Act.

4. On appearance of accused person, copies of relevant materials in terms of Sec. 207 of the CrPC were furnished to him.

5. 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 Ajay Das 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.

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6. In the instant case, the prosecution has examined only the victim and the informant of the case. 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.

7. Heard argument of both sides. Perused the record.

POINTS FOR DETERMINATION :-

(i) Whether the accused person on 1.9.2017 at about 1.30 PM at Rongpur Pt. IV under Katlicherra PS kidnapped the victim with intent that she may be or knowing it likely that she will be forced or seduced to illicit intercourse, as alleged ?

(ii) Whether the accused person after kidnapping the victim committed penetrative sexual assault on her, as alleged ?

DISCUSSION, REASONS AND DECISION THEREOF :-

8. The victim, PW. 1, has deposed that about one year back in a morning at about 9 AM she went to the house of her uncle situated at Garmurah without informing her parents and she stayed there for one day and as such, finding her in the house not available, her father lodged the case against the accused. The victim has further added in her evidence that the accused person did not take her but after hearing about the case, she appeared in the police station. Police got her medically

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examined and also got her statement recorded by the Magistrate and Ext.1 is the said statement, wherein Ext. 1(2) is her signature.

In cross examination, the victim has stated that she made statement before the Magistrate on being tutored by her father.

9. The PW. 2, the informant Sri Jaymohan Tripura, has deposed that about one year back one day he was absent in his house and when he came to his house, he did not find his daughter, the victim in the house and accordingly, he searched for her but did not find her out and thereafter, he lodged the ejahar against the accused on suspect. The informant has also deposed that subsequently he came to know that the accused was not involved in the occurrence and his daughter on her own will, went to the house of her uncle at Garmurah.

10. Now, let me scrutinize the evidence of the victim and her father, the informant.

The informant (PW. 2), the father of the victim in his evidence has vividly divulged that he lodged the ejahar against the accused person on suspect but subsequently, he came to know that the accused was not involved in the occurrence and at the relevant time, his daughter, the victim on her own volition went to the house of her uncle at Garmurah. Supporting the contention of the informant, the victim has also made it clear that at the relevant time, she went to the house of her uncle at Garmurah without informing her parents and stayed there for one day and the accused did not take her. Though on perusal of Ext. 1, the statement of the victim, it transpires that the victim implicated the accused to some extent but before this

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court, it is the clear version of the victim that on being tutored by her father, she made statement before the Magistrate. As such, I do not find any concrete reason to hold the accused person Ajay Das guilty for the commission of the offence, alleged.

11. In fine, the accused person Ajay Das is acquitted of the charge levelled against him under Sec. 366(A), IPC read with Sec. 4 of the POCSO Act and he is set at liberty forthwith.

12. The bail bond of the accused person stands discharged.

13. Send a copy of this judgment to the District Magistrate, Hailakandi.

14. The Special (POCSO) case is disposed of accordingly.

15. Judgment is pronounced and delivered in the open Court under the seal of this Court and on my signature on this 2nd day of July, 2018.

S. D. 02.07.18
Special Judge, Hailakandi.
SPECIAL JUDGE
HAILAKANDI

Dictated and corrected by me :-

[Signature]
Special Judge, Hailakandi.
SPECIAL JUDGE
HAILAKANDI

Dictation is taken and transcribed by Baharul Islam Choudhury.

Stenographer Grade I.

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Appendix :-

Oral evidences :-

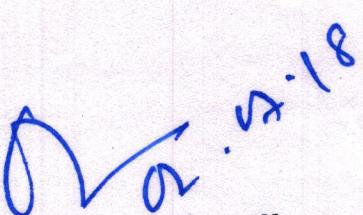
PW. 1, the victim.

PW. 2, Sri Jaymohan Tripura.

Documentary evidences :-

Ext. 1- Statement of the victim.

Defence did not adduce any evidence.


Special Judge, Hailakandi.
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