IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE ::::UDALGURI

Present : Smti. N. Talukdar,
Addl. Sessions Judge,
Udalguri.

Special (POCSO) 15/2018

State of Assam -Vs-

1. Laghanu Boro.....Accused.

For the Prosecution: Mr. M. Khaklari, Addl. Public Prosecutor.

For the Accused: Mr. Tarun Ch. Boro, Learned Advocate.

Date of Evidence : 15-09-18.

Date of Argument : 17-09-18.

Date of Judgment : 20-09-18.

JUDGMENT

1. The prosecution case in brief is that on 04-12-16, informant Fakua Boro lodged an FIR with the Officer in Charge of Kalaigaon P.S. alleging that on 27-11-2016, at about 09.30 pm, the accused person took away his minor daughter (Victim-A) through inducement. On the basis of the FIR, Kalaigaon PS Case No. 158/2016, U/S 366-A IPC R/W Section 4 of POCSO Act was registered and after completion of investigation Police submitted charge-sheet U/S 366 IPC, R/W Section 4 of POCSO Act against the accused person Laghanu Boro.

- 2. The learned Sessions Judge vide Order dated 20-07-2018, transferred the case to this court for disposal.
- 3. In consideration of the submission of the learned counsel for both the parties and materials on record and having found sufficient grounds for presuming that the accused persons had committed offences under Section 366-A I.P.C., R/W Section 4 of POCSO Act charges were framed there under and the ingredients of charges under Section 366-A I.P.C., R/W Section 4 of POCSO Act were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
- 4. The statement of the accused persons had been recorded U/S 313 Cr.P.C. The defence plea was of total denial.
- 5. The prosecution in order to prove its case examined the following 2(two) witnesses:

PW1- Sri. Fakua Boro.

PW2- Victim-A.

- 6. Situated thus, the point for determination in the instant case are set up as follows:-
 - (I) Whether the accused person induced Victim-A who is a minor girl under the age of 18 years to go with him to another place with intent that she may forced or seduced to illicit intercourse with him and thereby committed an offence punishable under Section 366-A IPC ?
 - (II) Whether the accused person committed sexual assault on Victim-A and thereby committed an offence punishable under Section 4 of POCSO Act ?

DISCUSSION, DECISION AND REASON FOR DECISION:

- 7. I have heard learned Addl. PP Mr. M. Khaklari for the prosecution and learned defense counsel Mr. Tarun Ch. Boro. Learned defence counsel has argued that the ingredients of Section 366-A I.P.C., R/W Section 4 of POCSO Act have not been established in the present case against the accused person.
- 8. I have gone through the evidences on record. The prosecution to prove its case examined 2(two) witnesses, PW1 is Sri Fakua Boro, who is the informant and vital witness of the case, had deposed that about 2 years back her daughter Victim-A went on missing and on search she was found untraceable. Then as per advice of the villagers he lodged the FIR. Later on, PW1 came to know that his daughter had got married to the accused Laghanu Boro. When she came back to home the police took her to the Court. She stayed in her parental home for some time and then PW1 took her to the house of her husband/accused Laghanu Boro. They have been living together as husband and wife and 3 months back the victim gave birth to a baby girl. In Cross-examination PW1 had deposed that at the time of occurrence his daughter was major.
- 9. PW2 is Victim-A. In her evidence she had deposed that PW1 is her father. About 2 years back she eloped with accused Laghanu Boro as she had love affairs with the accused Laghanu Boro and got married. Police brought her to the Court for recording her statement. Ext.-1 is her statement recorded under Section 164 Cr.P.C. Ext.-1(1) and Ext.-1(2) are the signatures of PW2. PW2 had further deposed that she had been living along with the accused/husband and had a baby girl which was about 3 months old. In cross-examination PW2 had stated that she eloped with the accused voluntarily and married the accused on her own volition.

10. On appraisal of evidence on record it appears that there is no incriminating evidence against the accused person. PW1, the informant & PW2, the victim, who are the principal and material witnesses of the case, have not adduced evidence implicating the accused persons. PW1 has deposed that when her daughter Victim-A went on missing and as per the advice of the villagers he lodged the FIR. Later on, PW1, the father of the Victim-A, took her to the house of her husband Laghanu Boro. He also further deposed that they have been living together as husband and wife and 3 months back gave birth to a baby girl. On the other hand PW2, the victim has stated that she had love affairs with the accused. In cross-examination PW2 had revealed that she eloped with the accused voluntarily and married the accused on her own volition.

With regard to age of the victim it appears that victim was major at the time of occurrence as revealed by her father PW1 in his crossexamination.

- 11. In view of above discussion it appears that the prosecution has failed to establish the charges under Section 366-A I.P.C., R/W Section 4 of POCSO Act against the accused person.
- 12. Situated thus the points for determination are decided in the negative and against the prosecution.

ORDER

13. In the result, the accused person Laghanu Boro is found not guilty under Section 366-A I.P.C., R/W Section 4 of POCSO Act and acquitted of charges under Section 366-A I.P.C., R/W Section 4 of POCSO Act and set with liberty forthwith.

14. Judgment signed, delivered and pronounced in the open court today the 20^{th} of September, 2018.

Dictated and Corrected

(N.Talukdar)
Addl. Sessions Judge
Udalguri

(N.Talukdar)
Addl. Sessions Judge
Udalguri

IN THE COURT OF ADDL. SESSIONS JUDGE::::::::::::UDALGURI. Special (POCSO) 15/2018 APPENDIX

(A) Prosecution Exhibits : Ext-1- Statement of PW2(victim-A)

Materials Exhibits : Nil.

(B) Defence Exhibits : Nil.

(C) Exhibits produced by witness: Nil.

(D) Court Exhibits : Nil

(E) Prosecution witnesses: PW1- Sri. Fakua Boro.

PW2- Victim- A.

(F) Defence witnesses : Nil.

(G) Court witnesses : Nil.

(N.Talukdar) Addl. Sessions Judge. Udalguri.