HEADING OF JUDGMENT IN SPECIAL CASE

District:- Goalpara.

IN THE COURT OF SPECIAL JUDGE, GOALPARA.

Present:- Sri S. Hazarika, A.J.S.

Spl. Judge, Goalpara.

Spl. Case No. 02/19 U/S-363/368 of the IPC.

State

Vs

- 1) Atowar Rahman and
- 2) Sofiqul Islam

.....Accused.

APPEARANCE:

For the Prosecution :Mr. S.Sarma
For the Defence :Mr A. Motin

Date of Evidence :25/07/2019 and 13/09/2019

Date of Judgment :26/09/2019

JUDGMENT

- 1. The prosecution case in brief is that Smti. Champa Devi lodged an F.I.R. interalia alleging that her daughter aged about 17 years was kidnapped by the accused at about 7 P.M. in his vehicle No. AS- 16-A-3818 and took shelter in the house of accused No. 2. The Police thereafter, recovered the girl and apprehended the accused persons. The informant prayed for taking necessary action against them.
- 2. On receipt of the F.I.R. the Police registered the case and investigation was done. The

witnesses were examined and the statement of the victim was recorded **U/S-164 Cr.P.C.** The medical examination was done. After completion of investigation, the Charge-Sheet was laid.

- **3.** This Court furnished copies to the accused and after hearing both sides, this court was pleased to frame charges **U/S-363/368 I.P.C. R/W Section 12 of of POCSO Act.** The contents of the charges read over and explained to which both accused persons pleaded not guilty and claimed to be tried.
- **4.** The points for determination are,
 - 1) Whether the accused persons kidnapped the minor girl,
 - 2) Wrongfully restrained the girl by confining her,
 - 3.) Whether the accused persons harassed the minor victim girl?

After the evidence of the prosecution side the statement of the accused persons recorded U/S-313 Cr.P.C. where both claimed to be innocent. I have heard submissions of both sides and also gone through the evidence on record.

Discussions, Decision and Reasons therefore.

- 5. The prosecution side examined as many as three witnesses in support of the case. Among the witnesses, **PW1** Nazir Hussain is the father of the accused, **PW2** is the victim of the alleged incident and **PW3** is th informant of the present case.
- **6. PW1** in his evidence stated that the accused is his son and the prosecutrix is his daughter—in-law. Both had love affair and they performed marriage socially and living together as husband and wife. The witness did not support the allegation of kidnapping, confining or about harassing the victim. Therefore his evidence is of no use.
- 7. PW2 is the prime witness of this case who stated that she used to have love affair with Sofiqul and they went to Krishnai. The public chased them and they went inside the house of Sofiqul. The public and the Police came and thereafter she was taken to hospital for medical examination and she gave statement U/S-164 Cr.P.C. Ext.1 is the statement. The evidence of the prosecutrix shows that she had love affair with the accused and she willingly went with the accused. The prosecutrix in her evidence stated that her age is 19 years and therefore on the date of occurrence she was a major girl. The prosecutrix did not support the prosecution case and without her evidence the prosecution case cannot stand. The prime witness therefore, did not support the case.
- **8. PW3** is the informant who stated that her daughter eloped with the accused some 8 months ago. The accused has married her daughter and living together as husband and wife. She

(3)

proved the FIR as **Ext. 2**.

The informant also in her evidence admitted that her daughter had love affair with the accused and both had performed marriage and living together as husband and wife. In her cross-examination she admitted that she does not want to proceed with the case and she has got no objection if the accused are acquitted. Thus **PW3** also did not support the allegations made by her in her FIR.

- **9.** Considering the evidence and record it appears that neither the informant nor the prosecutrix supported the case and there is no evidence to show that the accused persons have committed the offenses.
- **10.** In the result, the accused persons deserve to be acquitted and accordingly both are acquitted. The Bail Bond shall stand canceled after 6 months.

Given under my hand and seal on this 26th day of September, 2019.

(S.Hazarika) Special Judge,Goalpara

Spl.2/19

ANNEXTURE:

Prosecution witness:

PW1:-Nazir Hussain PW2:-Prosecutrix. PW3:-Champa Devi

Court witnesses:

Defence witnesses:

Prosecution exhibits: Ext.1: Satement Ext.2: Ezahar

Defence Exhibit:

(S.Hazarika) Special Judge,Goalpara