

IN THE COURT OF THE SPECIAL JUDGE, DHEMAJI.

Present: **Shri S. Das, A.J.S.,**
Special Judge,
Dhemaji,

JUDGMENT IN SPECIAL(POCSO) CASE NO. 16(DH) 2018.

(G.R. Case No.227/2018 (DMJ), Dhemaji P.S. Case No.93/2018 Under Section 366(A)/34 of the Indian Penal Code)

The State of Assam

- Versus -

Shri Dhunu SonowalAccused Person
S/O Dandi Sonowal,
R/O Bor Gaon,
P.S. DHemaji,
Dist.- Dhemaji.

8/03/2018

Appearance:

Shri A. Fogla,

Public ProsecutorFor the State

Smt. Ila Borgohain Advocate &

Shri Lakhi Sonowal, AdvocateFor the Accused

*Special Judge,
Dhemaji.*

Date of prosecution evidence : 31-7-2018

Date of argument : 31-7-2018

Date of Judgment : 03-8-2018.

JUDGMENT

1. The prosecution case in brief is that on 10-3-2018 complainant-Smt. Anumati Sonowal , W/O Debananda Sonowal, R/O Bor Gaon, P.S. and District- Dhemaji lodged an ejahar with Dhemaji Police Station alleging interalia that on 9-3-2018 at about 6 PM in the evening while her minor daughter- Smti 'X' (name is withheld) was going to the house of her aunt ('Barma') situated in their same village, the accused-Dhunu Sonowal forcibly took away her daughter from the road

2. On receipt of the ejahar police registered a case vide Dhemaji P.S. Case No.93/2018 u/s 366(A)/34 of I.P.C. Police started investigation and on completion of investigation submitted Charge-sheet against the accused- Dhunu Sonowal u/s 366 of IPC read with Sec. 4 of POCSO Act.

3. On receipt of the case record and on appearance of the accused, this Court considered the materials on record and upon hearing both the sides, framed charge u/s 366 of IPC read with Section 8 of POCSO Act and read-over and explained to him to which he pleaded not guilty. The prosecution, in order to prove its case, examined two witnesses. On perusal of evidence of witnesses, it is seen that the witnesses did not implicate the accused as to the involvement in the alleged commission of offence. However, the accused was examined u/s 313 of Cr.P.C. Defence declined to adduce any evidence.

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4. Points for determination:

(1) That you, on 9-3-2018 at about 6 PM at Bor Gaon under Dhemaji Police Station you and other co-accused Babuwa Sonowal abducted/kidnapped Smti 'X', a minor girl aged about 14 years, with intent that she might be compelled to marry you against her will, or that she might be forced or seduced to illicit intercourse and thereby committed an offence punishable u/s 366 of IPC.

(2) That you, on the same day, thereafter committed sexual assault on Smti 'X' , daughter of complainant-Smti Anumoti Sonowal against her will and thereby you committed an offence punishable u/s 8 of POCSO Act and within my cognizance.

5. I have gone through the evidence on record and heard arguments of both sides.

Discussion, Decision and Reasons thereof:

6. **PW1** the victim Smti 'X' stated that complainant is her mother. She knows the accused Dhunu Sonowal. The incident took place about 3/4 months back. She developed love affairs with the accused. Her parents were opposed to her mix up with the accused. Her parents also used to scold her due to her mix up with the accused. So, on the date of occurrence she called the accused and went with him to Gogamukh. They roamed about here and there as she was not willing to come back home. Her mother lodged complaint at police station against the accused. On getting information about filing of complaint they returned back home, then police brought her and the accused to police station. She gave statement before police and Magistrate. Accused is her good friend and during the period she was with him, accused did not physically abuse her or did any harm to her.

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In her cross- examination PW1 stated that after she narrated the incident to her parents they called accused to their house and interrogated the accused and the accused stated that he went with her as per her wish and he did not do any harm to her. The accused was repentant and she also told her parents that as the accused did not do any harm to her he should not be prosecuted. Accordingly, we have decided not to proceed against the accused. The accused may be acquitted in this case.

7. **PW2** Smti Anumati Sonowal stated that she is the complainant. She knows accused Dhunu Sonowal. Victim is her daughter. The incident took place about 3/4 months back. Her daughter developed love affairs with the accused. They were opposed to her mix up with the accused. They also used to scold her due to her mix up with the accused. On the date of occurrence her daughter went missing. So, she lodged complaint at the police station. In the meantime her daughter informed her over phone that she along with the accused went to Gogamukh for a visit. They came to know that they stayed in the house of accused's elder sister. After filing of the complaint her daughter and the accused returned back home and they were taken to police station. On being asked her daughter stated that accused did not do any harm to her. Ext.1 is ejahar. Ext.1(1) is her signature.

In cross- examination PW2 stated that after my daughter narrated the incident they called accused to their house and interrogated the accused and the accused stated that he went with her daughter as per her wish and he did not do any harm to her. The accused was repentant and her daughter also told them that the accused did not do any harm to her. Accordingly, they have decided not to proceed against the accused. The accused may be acquitted in this case.

Appreciation of evidence :

8. From discussion of evidence it appears that PW1 stated that she knows the accused Dhunu Sonowal. The incident took place about 3/4

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months back. She developed love affairs with the accused. Her parents were opposed to her mix up with the accused. Her parents also used to scold her due to her mix up with the accused. So, on the date of occurrence she called the accused and went with him to Gogamukh. They roamed about here and there as she was not willing to come back home. Her mother lodged complaint at police station against the accused. On getting information about filing of complaint they returned back home, then police brought her and the accused to police station.

9. PW2 in cross-examination stated that after my daughter narrated the incident they called accused to their house and interrogated the accused and the accused stated that he went with her daughter as per her wish and he did not do any harm to her. The accused was repentant and her daughter also told them that the accused did not do any harm to her.

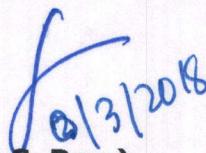
10. On consideration of the evidence on record, I find that there is no incriminating evidence to rope the accused with the commission of the alleged offence. I find that the prosecution has totally failed to prove the charge u/s 366 IPC and R/W section 8 of POCSO Act against the accused.

11. In view of the above, I find accused-**Dhunu Sonowal** not guilty u/s 366 IPC and R/W section 8 of POCSO Act. Accordingly, he is acquitted of the charge leveled against him.

12. Set him at liberty forthwith.

13. Judgment is pronounced in open Court.

14. Given under my hand and seal of this Court on this the **3rd day of August/2018**.



(S. Das)
Special Judge,
Dhemaji.