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IN THE COURT OF SESSIONS JUDGE DARRANG, MANGALDAI.

Spl(POCSO) case No.5 of 2019

(U/S:366 of I.P.C.).

State Versus

Mafizuddin Ali S/O Md. Kashem Ali Village- Alisinga Gaon

P.S- Dalgaon, Dist-Darrang,

(Assam)

--Accused.

PRESENT: Sri P.K. Bora, A.J.S., Sessions Judge. Darrang, Mangaldai.

APPERANCE:

Learned advocate for the State: Mr. Premeswar Sarma.

AND

Learned advocate for the accused :Mr. Salim Ahmed

AND

Mr. Kazal Hoque

Evidence recorded on : 12/06/19

Argument heard on : 12/06/2019

Judgment delivered on : 12/06/2019.

JUDGMENT:

- 1. The case of the prosecution in brief is that on 23/09/2019 one Monowara Begum lodged an FIR before the O/C, Dalgaon Police Station stating that on 07/09/2018 at about 11 p.m. her 18 years old daughter Sakhina Begum was kidnapped by the accused Mafiz Ali.
- 2. Having received the FIR, Police registered a case, got the statement of the victim Sakina Begum recorded and finally, Police submitted charge sheet against the accused U/S 366A/376(3) I.P.C. read with Section 6 of POCSO Act. During investigation, the accused secured bail.
- 3. On his appearance before this Court, the written charge U/S 366 I.P.C. explained and read over to the accused to which he pleaded not guilty.

4. Point for determination:

(i)Whether the accused person kidnapped Sakhina Begum for the purpose of marriage and for seduction?

REASON AND DECISIONS THEREON:

- 5. In the course of trial, the prosecution examined Sakina Begum as PW1 and her mother informant Manowara Begum as PW2.
- 6. Sakina Begum(PW1) has stated in her evidence that she had four years old love affair with the accused Mafiz and one day they eloped to Lakhimpur. One day the vehicle of the accused Mafiz met with an accident at Mazbat and on that day both she and the accused were caught in this case. Prior to it her mother had lodged an FIR. During investigation her statement was recorded in the Court. She proved Ext.1 as her statement and Ext.1(1) as her signature. She states that at the time of the incident she was 18 years.
- 7. Informant Manowara Begum(PW2) has stated that to please others, she filed a case against the accused and the accused is innocent.

- 8. It is seen that in Ext.1, the victim recorded her age as 18. In this case, the I.O. did not think it proper to ascertain the age of the victim Sakina Begum. I.O. relied upon a School certificate issued by Bechimari H.S. School. In the said School certificate the date of birth of Sakina Begum was shown as 13/12/2002. But the said document cannot be considered as genuine document to ascertain the age of the victim. On the other hand, the oral evidence of the victim is that at the time of the incident she was 18 years and the informant's version is that the accused is innocent. In such circumstances the benefit of margin of age will go to the accused. However, there is no case against the accused person.
- 9. Considering the above, the accused Mafizuddin Ahmed is acquitted and set at liberty forthwith.

(P.K. Bora) Sessions Judge, Darrang, Mangaldai.

Dictated and corrected by me.

Sessions Judge, Darrang, Mangaldai.

APPENDIX

(A)Prosecution witnesses:

(i)PW1 Sakina Begum

(ii)PW2 Manowara Begum

B) Defense witness: Nil.

C)Exhibits:

(i)Ext.1 statement of victim

Sessions Judge, Darrang, Mangaldai.