

IN THE COURT OF THE ADDL. SESSIONS JUDGE, BARPETA

Sessions Case No. 109/2018
(Arising out of G.R. Case No. 4211/15)
U/S 366/376 IPC

PRESENT : **Sri Chatra Bhukhan Gogoi, AJS,**
Addl. Sessions Judge,
Barpeta.

Committed by:- **Sri Motilal Das,**
Addl. C.J.M. Barpeta,
Barpeta.

Charge framed on:- 14.08.2018

State of Assam

- Vs -

Billal Hussain

Date of Recording Evidence on – 04.02.2020

Date of Hearing Argument on – 04.02.2020.

Date of Delivering the Judgment on – 04.02.2020

Appearance :

Advocate for the State----- Mrs. P. Das, Addl. P.P.

Advocate for the Accused----- ..., Learned Advocate.

JUDGMENT

1. The prosecution case, in brief, is that, one Abdus Subur Ahmed lodge a complaint in the court of CJM, Barpeta alleging inter alia that accused No 1 at the ill advised of other accused persons named in the complaint allegedly kidnapped his sister from her residence and committed rape on her against her will under threat of death and also apprehends that she was engaged by accused in flash trade. Hence the case.

2. However said complaint was subsequently forwarded to Barpeta P.S. for investigation and submission of report by the concern Magistrate.

3. Acting on the information police registered the case being Barpeta P.S case No 290/15 u/s 143/366/376 IPC and investigated the case.

4. On completion of investigation, police finally laid the charge sheet against accused Billal Hussain u/s 366/376 IPC with a view to stand trial.

5. In due course, when accused entered his appearance in court to face trial, the learned Addl CJM, Barpeta vide order dated 27.07.2018 committed the case record to the court of Sessions for trial after due compliance of section 207 Cr.P.C.

6. Having received the case record on transfer, this court after hearing the learned counsels appearing for both sides having found a prima facie case vide order dated 14.08.2018 framed charges u/s 366/376 IPC. The particulars of the offences on being read over and explained the accused person pleaded not guilty and claimed trial.

7. During the course of trial, the prosecution examined only 2 witnesses namely the informant Abdus Subur Ahmed as PW-1 and the alleged victim Nurjahan Khatun as PW-2. However, concluding the quality of prosecution evidence on record hearing the learned additional PP further prosecution evidence stands closed.

8. Examination of accused u/s 313 Cr.P.C. is dispense with in view of lack of implicating materials. The plea of the accused is total denial of the prosecution case. As such, on being asked accused declined to adduce defence evidence.

9. **Now point for determination** ;-

1. Whether on 03.06.2015 at about 2 am accused kidnapped the victim girl with intent that she may be compelled or forced or seduced to illicit intercourse with any person including accused as allege ?

2. Whether on the same day and time accused committed rape on the victim as allege ?

10. **Discussion, Decision and reasons for such decision** :-

I have heard the learned lawyers appearing for both sides and also carefully scanned the prosecution evidence available on record.

11. The learned counsel appearing for the State Smti. P. Das submitted that prosecution examined 2 witnesses. However, court may pass judgment after

appreciating evidence on the record.

12. On the other hand, the learned counsel appearing for the accused arduously contended that there is absolutely no credible evidence emerged in the mouth of the two prosecution witnesses which attracts the ingredients of the offences u/s 366/376 IPC for sustaining conviction. It is arduously contended that PW-1 who is the informant and PW-2 who is the alleged victim failed to adduce any credible and trust worthy evidence to implicate the accused person with the offences charged. As against the allegation made in the FIR the victim in the court on oath did not open her mouth regarding commission of any sexual assault against her by accused. The entire edifice of the prosecution case is solely based on the evidence of victim but she herself is reluctant to divulge the truth. Her evidence is non committal in nature. Considering the nature of evidence on record it appears that prosecution miserably failed to substantiate the charges for sustaining conviction.

13. From the evidence on record it appears that not a single ingredients of the offences u/s 366/376 IPC are found prove in the instant case.

14. In the result, this court has no option but to acquit the accused Billal Hussain from the charge u/s 366/376 IPC on the ground of benefit of doubt and set him at liberty forthwith.

15. The terms of bail bond of accused person is extended for a period of 6 (six) months from to-day as provided U/S 437(A) of Cr.P.C.

16. Let a copy of the judgment be forwarded to the learned District Magistrate, Barpeta as provided in section 365 Cr.P.C.

17. Let case record be consigned to record room as per procedure.

18. Given under my hand and seal of this Court on 4th day of February, 2020, at Barpeta.

Dictated & Corrected my me

Sd/-
(Sri C.B. Gogoi)
Addl. Sessions Judge,
Barpeta.

Sd/-
(Sri C.B. Gogoi)
Addl. Sessions Judge,
Barpeta.

APPENDIX

1. The prosecution has examined the following 2 nos. of witnesses:-

PW-1 = Abdus Sabur Ahmed, the informant.

PW-2 = Nurjahan Khatun, the alleged victim.

2. The prosecution has exhibited the following document :-

Ext. 1 = is the FIR

Ext 1(1) & 1(2) = are the signature of the informant.

Ext. 2 = is the statement of the victim girl u/s 164 Cr.P.C.

Sd/-

(Sri C.B. Gogoi)
Addl. Sessions Judge, Barpeta.