

**IN THE COURT OF THE ADDL. SESSIONS JUDGE, BARPETA****Sessions Case No. 146/2019**

(Arising out of G.R. Case No. 2135/19)

**U/S 366 (A) IPC**

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

**Committed by:-**       **Smti Surajita Trivedi,  
SDJM(S), Barpeta,  
Barpeta.**

**Charge framed on:-** 06.08.2019

State of Assam

- Vs -

Dhrubajyoti Das

Date of Recording Evidence on – 07.02.2020

Date of Hearing Argument on – 07.02.2020.

Date of Delivering the Judgment on – 07.02.2020

**Appearance :**

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

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

**JUDGMENT**

1. The prosecution case, in brief, is that, on 23.03.2019 one Munindra Das lodge a FIR in Howly P.S. alleging inter alia that accused No 1 named in the FIR allegedly kidnapped his daughter on 22.03.2019 at 8 pm from his residence by taking advantage of absence of family members and kept her confined in an unknown place. Hence the case.
2. Acting on the information police registered the case being Howly P.S case No 136/19 u/s 366(A)/34 IPC and investigated the case.
3. On completion of investigation, police finally laid the charge sheet against accused Dhrubajyoti Das u/s 366(A) IPC with a view to stand trial. But another accused Gita Das was not sent up for trial.

4. In due course, when accused entered his appearance in court to face trial, the learned SDJM (S), Barpeta vide order dated 25.06.2019 committed the case record to the court of Sessions for trial after due compliance of section 207 Cr.P.C.

5. 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 06.08.2019 framed charges u/s 366(A) IPC. The particulars of the offence on being read over and explained the accused person pleaded not guilty and claimed trial.

6. During the course of trial, the prosecution examined only 2 witnesses namely the informant Munindra Nath Das as PW-1 and the alleged victim Momi Das as PW-2. However, concluding the quality of prosecution evidence on record hearing the learned additional PP further prosecution evidence stands closed.

7. 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.

8. **Now point for determination** :-

1. Whether on 22.03.2019 at about 8 pm 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 ?

9. **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.

10. 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.

11. 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 offence u/s 366(A) 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. She rather

stated that she voluntarily went with accused and now living with him as husband and wife. Considering the nature of evidence on record it appears that prosecution miserably failed to substantiate the charges for sustaining conviction.

12. From the evidence on record it appears that not a single ingredients of the offence u/s 366(A) IPC are found proved in the instant case.

13. In the result, this court has no option but to acquit the accused Dhrubajyoti Das from the charge u/s 366(A) IPC on the ground of benefit of doubt and set him at liberty forthwith.

14. 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.

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

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

17. Given under my hand and seal of this Court on 7<sup>th</sup> 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 = Munindra Nath Das, the informant.

PW-2 = Momi Das, the alleged victim.

Sd/-

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