

IN THE COURT OF THE SESSIONS JUDGE AT DHUBRI

Session Case No.210/2011

U/s. 366 (A)

G.R. Case No. (GPR) 510/2009

State of Assam

- Vs -

Md. Sahanur Sk.

Committing Magistrate : Mrs. S. Gogoi Bora, Sub-Divisional Judicial
Magistrate (S), Dhubri

Present : Sri A. Bhattacharyya, AJS
Sessions Judge, Dhubri

Sri M. Zaman, Public Prosecutor for the State.
Sri Sitangsu Kr. Dey Advocate for defence.

Date of Evidence : 05-01-2013 & 24-05-2013

Date of Argument : 24-05-2013

Date of Judgment : 27-05-2013

J U D G M E N T

Md. Fozler Rahman vide an ejahar dated 02-12-2009 states before the Gauripur Police Station that on 01-12-2009 at about 4:30 p.m. his granddaughter Mosstt. Anjuma Khatun aged about 15 years went to the village Durmordah for tuition and since then she has been found missing. On enquiry he could come to know that the accused Sahanur Sk. kidnapped her and kept confined in some undisclosed place.

2. The Gauripur Police Station on registration of a case on the basis of the aforesaid ejahar took up the investigation and at the conclusion of the investigation laid the charge sheet against the accused named above under section 366 (A) of I.P.C.

3. After commitment and on the appearance of the accused, the charge U/s.366 (A) I.P.C. is framed against the accused. The charge so frame is read over, explained and interpreted to the accused to which he pleaded not guilty.

4. During trial the prosecution side after examining as many as 4 (four) P.Ws including informant and victim closed their side. Statement of the accused is recorded. I heard the arguments of the case from both the parties.

5. Now the point for determination in this case will be as to whether the materials surfaced during trial would justify the conviction of the accused U/s.366 (A) I.P.C. or not?

6. To address the aforesaid point for determination let us have a look at the evidences on record.

DECISIONS AND REASONS THEREON

7. P.W-1 Md. Fozler Rahman being the informant during trial states that the accused kidnapped his granddaughter and as such he laid the ejahar under Ext-1 wherein Ext-1 (1) is his signature. On the date of incident and at the relevant point of time his Granddaughter was aged about 16 years. From the perusal of the testimonies of the P.W-1, it appears that he implicated the accused with the offence alleged of.

8. P.W-2 Md. Abdul Akher Sk. and P.W-3 Md. Zohirul Hoque are declared hostile by the prosecution, as they did not support the prosecution story.

9. P.W-4 Mosstt. Anjuma Bibi is the victim. During trial she stated before this Court that on the date of incident and at the relevant point of time she went to the house of her friend namely Mofida and stayed in her house for the night. Thus the inmates of her house lodged the ejahar. After lodging of ejahar police recovered her from the house of her friend. Thereafter police brought her before the Magistrate and got recorded her statement under Ext-2 wherein Ext-2 (1) is her signature.

10. From a perusal of Ext-2 and her aforesaid testimony, it appears that she has confirmed the prosecution story during trial as well as in her statement recorded under section 164 Cr.P.C. But she neither implicated the accused during trial nor in her statement recorded U/s.164 Cr.P.C. inasmuch as she stated both during trial and during the statement recorded U/s.164 Cr.P.C that she went to the house of her friend Mofida on 02-12-2009 and infact she did not utter the name of the accused. Further she stated her age as 19 years in her statement in the Ext-2.

11. Considering the aforesaid facts since the P.W-4 being the most material witness of the incident has not at all implicated the accused with the offence alleged of. Therefore, the materials so far surfaced in the testimonies of the P.Ws are not at all sufficient to bring home the offence alleged of against the accused named above.

12. For the reason as stated above, the accused is acquitted on benefit of doubt and set at liberty forthwith. His bail bond stands discharged. Judgment is delivered in open Court.

Given under hand and seal of the this Court on 27th day of May, 2013.

Dictated & Corrected by me

Sessions Judge, Dhubri

Sessions Judge, Dhubri.