

IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE ::: DHUBRI

**Present :- Shri Sutham Das
Addl. Sessions Judge
Dhubri.**

**JUDGMENT IN SESSIONS CASE NO.317 OF 2014
(Arising out of G.R. Case No. 3549 of 2013)**

State of Assam

-Vs-

Sahidul Islam.....Accused.

A P P E A R A N C E

For the State :- Mr. U.K. Sarkar
Addl. Public Prosecutor
Dist-Dhubri, Assam.

For the Accused :- Shri Amrit Lal Bairagi, Advocate.

Dates of Evidence :- 15.05.2017.

Date of Argument :- 15.05.2015.

Date of Judgment :- 20.05.2017.

J U D G M E N T

1. **Brief facts:-**

Prosecution case in brief is that complainant Moynal Hoque lodged a complaint before Ld. Chief Judicial Magistrate, Dhubri on 18-09-13 alleging that on 12-09-13 & since 5 months prior to the date of occurrence, his minor daughter Aysha Khatun at the enticement of accused No.2, victim became the prey of sexual lust of accused Sahidul Islam and accordingly, accused took her to his house and forcefully committed rape on her against her will. When the victim asked the accused that she will tell about the incident, then in connivance with accused No.2, promised to

marry her & not to tell anybody about the incident of rape. After, 5 months on 12.09.13 at about 10 AM, in his absence and other family members, accused came to his house and again tried to commit rape on his daughter by showing knife. When his daughter raised hue & cry, neighbouring relative came and saved her. There was a village meeting, but the accused persons did not turn up in the meeting. Then the complaint was filed.

2. The Ld. C.J.M., Dhubri forwarded the complaint to the O/C, Dhubri P.S and on receipt of complaint, police registered a case and started investigation and on completion of investigation police submitted charge-sheet against accused Sahidul Islam U/s. 376 IPC. The case came up before Ld. SDJM(S), Dhubri. On appearance of the accused before the Ld. SDJM(S), Dhubri copies were furnished to the accused and then the case was committed to the court of the Hon'ble Sessions Judge, transferred this case to this court for trial. On appearance of the accused this court considered the materials on record and upon hearing both the sides framed charge against the accused U/s. 376 IPC and read over and explained to the accused to which he pleaded not guilty.

3. Prosecution in order to prove his case examined 3(three) witnesses in all.

4. On conclusion of prosecution evidence, the accused was examined U/s.313 Cr.P.C. The circumstances appearing in the evidence against the accused was put to him and necessary questions were also put to him. The accused totally denied prosecution allegation. However, the defence adduced no evidence whatsoever.

5. **POINTS FOR DETERMINATION**

That you, since 5 months prior to filing the ejahar, at village Kalapakani Part-II (Isamari) under Dhubri Police-Station, committed rape on the daughter of the complainant Ms. Aysha Khatun, and thereby committed an offence punishable U/s. 376 of the Indian Penal Code and within the cognizance of the court of Sessions.

Discussion, Decision and Reasons thereof:

6. In this case prosecution examined Moynal Hoque (complainant) as PW-1, Aysha Khatun (victim) as PW-2 & Abdul Hamid as PW-3.

7. **PW-1**, Moynal Hoque in his evidence stated that he is the complainant of this case. He put thumb impression in the complaint. The victim Aysha Khatun is his daughter. The alleged occurrence took place in the year 2013. There was love affairs between victim & accused person. There was talk of marriage between his daughter and the accused. But he was taking time and hence he filed complaint against him and after filing of the case, he married off his daughter to another person. Now his daughter leading conjugal life. At the time of incident, his daughter's age was more than 18 years.

8. In cross, PW-1 stated that presently he is maintaining good relation with the accused and hence he does not want to proceed against the accused. Moreover, the accused did not cause any harm to his daughter and the complaint was filed at the instance of local people.

9. **PW-2** Aysha Khatun (victim) in her evidence stated that the complainant is her father. She knows accused. The occurrence took place in the year of 2013. She developed the love affairs with accused Sahidul Islam and there was talk of marriage between Sahidul and her. But Sahidul was taking time to marry her and she told her father about the delay of marriage and she thought that he would not marry her. Then her father lodged complaint against accused. After filing complaint, she was married off to another person. Now, she is leading conjugal life with her husband. Sohidul never caused any physical harm to her. At the time of incident, she was about 18-19 years.

10. In cross, PW-2 stated that now she and her father are maintaining good relation with the accused and hence, she does not want to proceed against the accused.

11. **PW-3**, Abdul Hamid in his evidence stated that the complainant is his father and the victim is his sister. He knows accused. His father lodged the complaint against accused alleging that the accused had love affairs with his sister and he was delaying the marriage with her and hence, his father lodged complaint. After filing the case, his sister was married to another person and now she is living conjugal life with her husband.

12. In cross, PW-3 now, his sister and his father are not willing to proceed against the accused and they are maintaining cordial relation with the accused.

13. The prosecution after examination of 3 vital witnesses submitted before the court that in this case the victim and her father who are the vital witnesses have not implicated the accused to show that the accused was involved in commission of alleged offence. The Ld. Addl. P.P. also submitted that the prosecution evidence may be closed in the facts and circumstances of the case.

14. I have considered the evidence of PWs. There is nothing in the evidence of the PWs that the accused has physically harassed or abused or had sexual intercourse with victim or caused any harm to her. Taking into consideration of all the materials facts, I find that prosecution has totally failed to prove the charge against the accused Sahidul Islam beyond all reasonable doubt.

15. In view of the above, I find the accused not guilty. Accordingly, he is acquitted from the charge U/s. 376 IPC. Set him at liberty forthwith. Judgment is pronounced in open court, the 20th May, 2017.

16. Given under my hand and seal of this court on this 20th day of May, 2017.

Dictated & Corrected by me

Addl. Sessions Judge,
Dhubri

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Dhubri