

IN THE COURT OF ADDITIONAL SESSIONS JUDGE (FTC):: AT DHUBRI.

Present:- P. Buragohain, AJS.

Session Case No. 45/12.

State of Assam.

-Vs-

Abdul Sabur AliAccused-person.

Appearance :

Mr A.T.A Bepari, Addl. P P.....For the State.

Mr. S. AliFor the accused.

Dates of Evidence: 27-02-13.

Date of Argument: 27-02-13.

Date of Judgement: 27-02-13.

-JUDGEMENT-

The case has been committed by Learned Judicial Magistrate, 1st Class, Bilashipara.

The brief fact of the prosecution case, inter-alia, is that on 08-05-07 the informant being the victim woman lodged an Ejahar reporting that on the night of 07-05-07 at about 08-00pm while she was going to discharge natural calls on her back of the house, at that time the accused holding her mouth over powered her and on her falling on the ground, the accused committed rape on her, and on hearing her screams her elder son came and caught hold the accused and raised alarms, thereafter, while her husband & her sister-in-law were coming to the spot, the another accused assaulted them by iron rod. Therefore, the informant prayed for necessary action against the accused-persons.

That on receipt of the said First Information Report, the police registering a case vide Bilashipara PS Case No. 110/07 u/s 376/325/34 of IPC took up the investigation and on completion of investigation, the police submitted a charge-sheet against the accused sending him up to stand trial for the offences punishable u/s 447/376 of IPC. Hence, the instant case in hand. That on appearance of the accused, learned committal Court on furnishing the copies of the police-papers to him committed the case for trial.

And on appearance of the accused, my learned Predecessor on hearing both sides & on the materials on record, framed charges punishable u/s 447/376 of IPC against the accused and same was read over & explained to them to which he pleaded not guilty and claimed to be tried.

During trial, the prosecution in support of its case has examined six witnesses including the informant-cum-victim woman but they in their depositions have entirely denied the prosecution case for which the prosecution has declined proceed further with the case and the evidence of the prosecution is closed. The examination of accused-person u/s 313 of Cr PC is dispensed with for lack of incriminating evidence against him.

I have heard arguments put forward by the Learned Counsel of both sides and carefully gone through the entire evidence on record.

Now, the points for determination in the instant case are:-

Whether accused about 08-00pm on 07-05-07 at Dubachori part-I under Bilashipara Police-Station wrongfully trespassed into the house compound of the informant-P.W.1 with intent to commit rape on her, thereafter committed rape on her as alleged?

