

IN THE COURT OF THE SESSIONS JUDGE AT DHUBRI

Session Case No.30/2012

U/s. 366/34 I.P.C.

G.R. Case No. (GPR) 330/2011

State of Assam

- Vs -

- 1. Budhadev Chatterjee**
- 2. Jyoti Prasad Deuri**

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

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

Sri M. Zaman, Public Prosecutor for the State.
Sri R.N. Mondal & Anowar Hussain, Advocates for defence.

Date of Evidence : 06-08-2012 & 01-02-2013

Date of Argument : 01-02-2013

Date of Judgment : 02-02-2013

J U D G M E N T

Smti Siulee Das vide an ejahar dated 12-07-2011 states before the Gauripur Police Station that her niece Miss Moupriya Das aged about 16 years at about 4 p.m. on 12-07-2011 went outside of the house for tuition. At about 8 p.m. she received information from Gauripur Police Station that her niece was nabbed alongwith two youths nearing to village of National Highway No.31. She suspected that accused persons had kidnapped her niece. Thus the occasion of the instant ejahar.

2. The Gauripur Police Station on registration of a case took up the investigation and at the conclusion of the investigation laid the charge sheet against the accused persons U/s.366(A)/34 I.P.C.

3. After commitment and on the appearance of the accused persons before this Court, the charge under Sec. 366/34 I.P.C. is framed against them. The charge so framed is read over, explained and interpreted to the accused to which they pleaded not guilty.

4. During trial the prosecution side after examining as many as 5 (five) P.Ws closed their side. Statement of the accused persons is recorded. I heard 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 persons under Sec. 366/34 I.P.C?

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

7. P.W-1, Ms. Siulee Das during trial states that she lodged the ejahar in this case. The victim Moupriya Das is her niece. On the date of incident, the victim went for tuition. Thereafter, her niece went along with the accused persons to Gauripur. Later on Gauripur Police Station rang up her. She lodged the ejahar under Exhibit-1 wherein Exhibit-1 (1) is her signature.

During cross examination she (P.W-1) stated that Accused Bhudadev Chatterjee had the visiting terms with their house prior to the incident. On the date of incident and at the relevant point of time, they asked Bhudadev Chatterjee to bring her niece. Police recovered the victim and the accused persons at Gauripur and pressurized her to lodge the ejahar and accordingly she lodged the ejahar. She did not have suspect that the accuseds might be behind the kidnapping of her niece. Police took her signature on a paper for taking the victim from police station. Accordingly, she put my signature on the said paper. Today she found the said paper as the ejahar. She did not have knowledge as to the contents of the ejahar.

8. P.W- 2, Miss Moupriya Das is the victim of the incident. During trial she had supported the story of P.W-1. Further, she stated that Police brought her to Dhubri for recording her statement and also for getting her medically

examined. Exhibit-2 is the said statement recorded U/s.164 Cr.P.C wherein Exhibit-2 (1) and 2 (2) are her signatures.

During cross examination she stated that after meeting with Bhudadev Chatterjee she requested Bhudadev to take her for roaming. Thereafter friends of Bhudadev also accompanied them. Both of them were in bikes and she took the seat at the Bike of Bhudadev. On their returning police took them to the police station. Thereafter police called her aunty to police station and got lodged the ejahar. She stated in the Exhibit-2 as per instruction of the police. Bhudadev Chatterjee did not force her to accompany rather, she went along with him at her own will. The accused Bhudadev is known to her prior to the incident and out of misunderstanding the case had arisen.

9. P.W-3 Md. Jomir Ali, P.W-4 Md. Opijuddin and P.W-5 Md. Umiul Ahmed @ Rubul appear to be witnesses of seizure list. According to them, police on the date of incident seized one Motorbike vide Ext-3 and obtained their signatures under Ext-3(1), 3(2) and 3(3) respectively.

So these are all about the evidences on record.

12. Here in this case the evidences as narrated here in before would indicate that P.W-1 and P.W-2 are the material witnesses of the incident. But, their evidences would apparently show that the aforesaid materials witnesses did not implicate the accused persons at all with the offence alleged of.

13. For the aforesaid reasons, it can be firmly concluded that the offence alleged of has not been established beyond all reasonable doubt. Therefore, the accused persons are acquitted of the offence alleged of and set at liberty forthwith. Their bail bonds stand discharged. Judgment is delivered in open Court.

Given under my hand and seal of the Court on this 2nd day of February, 2013.

Dictated & Corrected by me

Sessions Judge, Dhubri

Sessions Judge, Dhubri.