

**IN THE COURT OF THE SESSIONS JUDGE AT DHUBRI**

**Session Case No.66/2012**

U/s. 448/376 I.P.C.

G.R. Case No. (BLP) 616/2010

**State of Assam**

**- Vs -**

**Md. Nur Hoque Ali**

Committing Magistrate : Sri N.S. Deori, Sub-Divisional Judicial  
Magistrate (M), Bilasipara.

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

Sri M. Zaman, Public Prosecutor for the State.  
Sri S.R. Sarkar, Advocate for defence.

Date of Evidence : 13-12-2012 & 22-01-2013

Date of Argument : 22-01-2013

Date of Judgment : 24-01-2013

**J U D G M E N T**

Mosstt. Anjuma Begum vide an ejahar dated 18-12-2010 states before the Bilasipara Police Station that on 29-11-2010 at about 10 p.m. the accused named above by taking advantage of the absence of her parent in her house, entered into the same and committed rape upon her. It is stated that at the time of commission of aforesaid offence, her mother and brother Ali Sk. came to the house and found the accused therein and accordingly confined him. The incident was informed to the people of village but the matter did not settle in the village salish and as such, the ejahar has been laid after making delay.

2. The Bilasipara Police Station on registration of a case took up the investigation and at the conclusion of the investigation laid the charge sheet U/s.448/376 I.P.C.

3. After commitment and on the appearance of the accused person, the charges there under were framed against the accused person. The charges so framed were 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 closed their side. Statement of the accused person 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 conviction of the accused person under the offences charged of?

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

#### **Decision and reasons thereon.**

7. P.W-1 Mosstt. Anjuma Bibi states during trial that two years ago one night at about 10 p.m. accused came to her house. At that time her husband was absent in the house. Accused asked her as to whether she would marry him or not. Thereafter, her mother raised alarm and the matter was referred to village bichar, wherein the matter did not settle and as such she brought the case under Ext-1 wherein Ext-1 (1) is her signature. After lodging case, police brought her and got her examined by the Doctor.

During cross examination, the P.W-1 stated that prior to the incident and since 8 months, she had to stay at the house of her parental home as trouble started in her conjugal life and she had to return to her parental home. That is why the accused on that day gave proposal to marry her. Since land dispute continued between her house and the accused, therefore, her mother raised alarm and asked her to bring the case. After lodging ejahar the matter was settled in the village bichar and accordingly the case was compromised between them.

8. P.W- 2 Mosstt. Rejia Bewa, being the mother of the victim (P.W-1) during trial supported the story of the victim.

9. P.W-3 Md. Fazlur Rahman and P.W-4 Md. Sopiql Islam during trial states that on the date of incident and at the relevant point of time both of them heard cries. Hearing the cries both of them went to the house of Anjuma Bibi and came to know therein that the accused had entered into the house of Anjuma.

So these are all about the evidences on record.

10. Here in this case the accused faced the trial U/s.448/376 I.P.C. The offences alleged of is allegedly committed against P.W-1 but the P.W-1 during trial stated that on the date of incident and at the relevant point of time accused came to her house and gave proposal of marriage to her only. Excepting the aforesaid occurrence, the accused did not commit anything. In fact, P.W-1 being the victim could not bring anything in support of the prosecution story during trial against the accused. From her testimony so also from the testimonies of the other P.Ws, nothing has surfaced in support of the allegation of the prosecution side.

11. Considering the aforesaid reasons, it can be concluded that the offences alleged of have not been brought home against the accused beyond all reasonable doubt. Therefore, 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 my hand and seal of the Court on this 24<sup>th</sup> day of January, 2013.

Dictated & Corrected by me

Sessions Judge, Dhubri

Sessions Judge, Dhubri.