

# THE COURT OF THE SESSIONS JUDGE AT DHUBRI

## Session Case No.116/2012

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

G.R. Case No. (GPR) 305/2011

**State of Assam**

**- Vs -**

- 1. Md. Anser Ali**
- 2. Md. Fazar Ali**
- 3. Md. Rajab Ali &**
- 4. Md. Abu Kalam**

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

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

Sri M. Zaman, Public Prosecutor for the State.  
Sri Anam Uddin Ahmed, Advocate for defence.

Date of Evidence : 23-05-2013, 14-06-2013 and 08-07-2013

Date of Argument : 09-07-2013

Date of Judgment : 10-07-2013

## **JUDGMENT**

Md. Abul Hussain vide an ejahar dated 24-06-2011 states before the Athali O.P. under Gauripur Police Station that on 23-06-2011 the accused persons named above induced his minor daughter namely Jesmina Begum aged about 15/16 years and kidnapped her and thereby took away and confined her somewhere. Thus the occasion of filing of the ejahar.

2. The Golakganj 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 under section 366 (A)/34 of I.P.C.

3. After commitment and on the appearance of the accused persons before this Court, the charge under section 366/34 of I.P.C. is framed against the accused. 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 4 (four) P.Ws closed their side. Statement of the accused persons are 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 are sufficient to convict the accused persons U/s.366/34 I.P.C?

### DECISIONS AND REASONS THEREON

6. To address the aforesaid point for determination obviously perusal of the evidences on record is necessary.

7. Herein this case Md. Abdul Hussain, who happens to be the informant of this case is examined as P.W-1. During trial he stated that he laid ejahar under Ext-1 wherein Ext-1 (1) is his signature. On the date of incident he did not find his daughter Jasmina Khatun in the house. At that time she was aged about 15/16 years. When she did not return to house and out of suspicion he laid ejahar mentioning the name of the accused persons and he suspected that accused persons might have kidnapped his daughter.

During cross-examination the aforesaid witness states that on the date of incident his daughter was aged about 18/19 years. This apart, on the date of incident he was absent in the house so he cannot say as to the circumstances leading to the missing of his daughter. He came to know later on that his daughter married the accused Anser Ali with whom she has been leading peaceful married life and also she has been blessed by a child.

8. P.W- 2 Musstt. Nur Jahan Bibi is the mother of the victim and during trial she has totally supported the story unfolded by her husband (P.W-1).

9. P.W-3 Musstt. Mojiran Bibi being the sister-in-law of the victim had also supported story as had been unfolded by the other two P.Ws as indicated above.

10. P.W-4 Musst. Jesmina Khatun being the victim of this incident states during trial that she had love affairs with accused Anser Ali. On the date of incident she went to the house of Anser Ali. Thereafter, they got married. They are living peacefully and one female child has been born out of their wedlock. After her arrival at the house of Anser Ali her father laid ejahar before the police station. Police recovered her from the house of Anser Ali and produced her before the Court and her statement was recorded therein. Ext-2 is her statement wherein Ext-2 (1) is her signatures.

During cross-examination she stated that accused persons did not force her to go to the house of Anser Ali nor they had kidnapped her. At the time of incident her age was about 19 years.

So these are all about the evidences on record.

11. On a meticulous examination of the evidences on record, it is revealed that the informant stated that the age of the victim was 18/19 years at the time of incident. This apart the informant deposed that out of suspicion he had brought the case. On the other hand, the victim being a major girl stated that the accused persons neither forced her to go to the house of accused Anser Ali nor kidnapped her.

12. So it is very much clear that the victim being a major girl went to the house of accused Anser at her own will with whom she has been leading peaceful married life and also has been blessed by a child.

13. Under the aforesaid circumstances, without hesitation it can be concluded that the evidences so far surfaced during trial are not at all sufficient to convict the accused persons U/s.366/34 I.P.C. Therefore, accused persons are acquitted on benefit of doubt due to the insufficiency of evidences and set at liberty forthwith. Accordingly, their bail bonds stand discharged. Judgment is delivered in open Court.

Given under my hand and seal of the Court on this 10<sup>th</sup> day of July, 2013.

Dictated & Corrected by me

Sessions Judge, Dhubri

Sessions Judge, Dhubri.