

IN THE COURT OF THE SESSIONS JUDGE AT DHUBRI

Sessions Case No.13/2013

U/s.366 I.P.C

G.R. Case No. (DBB) 570/2011

State of Assam

- Vs -

Md. Khayaddi Sheikh

Committing Magistrate : Sri P.C. Kalita, Chief Judicial Magistrate,
Dhubri

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

Sri M. Zaman, Public Prosecutor for the State.

Sri Shafiqul Hoque Prodhani, Advocate for defence.

Date of Evidence : 05-04-2013, 29-08-2013 & 20-11-2013

Date of Argument : 20-11-2013

Date of Judgment : 21-11-2013

J U D G M E N T

One Jelaka Bewa vide an ejahar dated 12-10-2011 states before the i/c, Dharmasala out post under Dhubri Police Station that on 02-10-2011, the accused named above took her daughter to visit the house of Kabiraj and since then her daughter and the accused have been found missing. After 5 (five) days of the missing, she came to know that the accused named above kidnapped her daughter and concealed somewhere else. Thus the occasion of the instant ejahar.

2. The Dhubri Police Station on registration of a case on the basis of the aforesaid ejahar and got investigated into the case. Thereafter, the police laid the charge sheet against the accused under Section 366 I.P.C.

3. After commitment and on the appearance of the accused, the charge there under is framed. The charge so framed is read over, explained and interpreted to the accused to which, he pleaded not guilty.

4. During trial prosecution side after examining as many as 3 (three) P.Ws including the victim and the informant closed their side. Statement of the accused was 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 in the testimonies of the P.Ws would warrant conviction of the accused person under Section 366 I.P.C. or not?

DECISIONS AND REASONS THEREON

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

7. The P.W-1 Jelaka Bewa being the informant of this case states during trial and in her examination-in-chief that the victim Aysha Bibi is her daughter. Accused is the father-in-law of her daughter. Aysha was married to the son of the accused. On the date of incident and at the relevant point of time the accused being the father-in-law took her daughter to visit the Chamber of a Kabiraj. They did not return for a period of 8 (eight) days. Thus, out of suspicion she laid the ejahar, wherein she put her thumb impression.

Defence side declined to cross-examine the aforesaid P.W.

8. P.W-2 Md. Bahaluddin Sk. states during trial and in his examination-in-chief that he knows the accused. The victim Aysha Bibi is his granddaughter. On the date of incident he visited the house of Aysha Bibi and at that time her mother told him that Aysha is missing from the house. Thereafter, she told him that her own father-in-law had taken her & out of misunderstanding the case was lodged.

Defence side also declined to cross-examine the said witness.

9. P.W-3 Musst. Aysha Bibi being the victim states during trial and in her examination-in-chief that the accused Khayaddi Sk. is her father-in-law. On the date of incident and at the relevant point of time she was suffering from illness and then the accused, who happens to be her father-in-law took her to the house of Kabiraj at Gauripur. Then her mother out of misunderstanding laid the case. After lodging of the ejahar, police recovered her and produced her before the Court and Magistrate recorded her statement wherein she put her thumb impression.

P.W-3 being the victim was not cross-examined by the defence side.

So these are all about the evidences on record.

10. On a minute perusal of the testimonies of the P.Ws, it is very much clear that none of the P.Ws has implicated the accused with the offence in their substantive evidences, rather it has been revealed from the testimonies of the P.Ws that out of suspicion the informant brought the case against the accused and according to the informant misunderstanding had generated the instant case.

11. In view of the above, the materials revealed from the testimonies of the P.Ws are not at all sufficient to convict the accused under the offence alleged of. Therefore, the accused is acquitted on benefit of doubt due to the insufficiency of evidences and set at liberty forthwith. His bail bond stands discharged. Judgment is delivered in the open Court.

Given under my hand and seal of this Court on this 21st day of November, 2013.

Dictated & Corrected by me

Sessions Judge, Dhubri

Sessions Judge, Dhubri.