

IN THE COURT OF ADDL. SESSIONS JUDGE, BILASIPARA CIRCUIT COURT

AT BILASIPARA, DHUBRI

Present: Sri Dhrupad Kashyap Das

Addl. Sessions Judge, Bilasipara Circuit Court

Bilasipara, Dhubri

SESSIONS CASE NO. 190/2011

(Under S. 366 IPC)

State of Assam

-VS-

Abdul Sattar Accused Person

For the State: Md. A.T.A. Bepari, Ld. Addl. P.P.

For the Accused Persons: Md. J. Talukdar, Mr. S. Bhowmik, Md. D. H. Sk &
Md. M. Zaman Ld. Advocates

Date of Evidence: 18. 6.13

Date of Statement Defence: 12.9.13

Date of Argument: 12.9.13

Date of Judgment: 16.9.13

J U D G M E N T

1. Facts of the Case: The prosecution case initiated on the basis of an ejahar lodged by one Abdul Khaleque, Informant on 9.11.09 before the O/C, Bilasipara Police Station, Bilasipara stating that on 1.11.09 at about 12 noon his married sister Rehena Aktar alongwith her minor son went to Bilasipara Town for making jewellery from his house and they were kidnapped by the Accused from the bus stand. Accordingly police had registered a case i.e Bilasipara P.S. Case no. 376/09 under Section 366 IPC against accused person

2. That after formal registration of the FIR against the accused person, police started the investigation process. During investigation police recorded statement of witnesses and the victim Rehena Aktar made statement u/S. 164 Cr. P.C. who disclosed that on the day of the incident she met the accused who offered her a cup of tea and a 'paan' (bittle). After taking the 'paan' she became senseless and, thereafter, she was taken to Guwahati by vehicle. After completion of the investigation, investigating authority submitted the chagesheet on 30.11.09 against the accused person u/S. 366 IPC. Hence, the present case.

3. That after submission of the chagesheet, the case was committed to the Court of Sessions from the Court of Ld. SDJM (M), Bilasipara. After commitment of the case to the Court of Session, charge u/S. 366 IPC was framed against the accused person after hearing on charge. The charge framed against the accused person was explained him to which he pleaded not guilty and claim to be tried. Hence, the present trial.

4. That during trial of the case, the prosecution has examined only 3 nos. of witnesses. Witness Noor Islam was examined as P.W. 1. Witness Ismail Hussain was expired reportedly and so could not be examined. The Prosecution examined the Complainant as P.W. 3 and the Victim Rehena Akhtar as P.W. 2. They have denied the entire case of the prosecution for which learned Additional Public Prosecutor has declined to proceed further with the case and on hearing the evidence of the prosecution is closed to meet the ends of justice.

5. That after closing down the prosecution evidence the accused person was examined U/S. 313 Cr. P.C. All the incriminating evidences and circumstances appearing against the accused person were put for explanation. He denied the same and pleaded innocence. He declined to adduce any evidences on his behalf as DW.

After hearing of the arguments of the Prosecution and the Defence, this Court like to frame the Points for Determination of the case as hereunder:

6. **Points for Determination:**

Whether the accused person had kidnapped the victim woman intentionally and took her to Guwahati for some illegal purpose?

7. DECISIONS AND REASONS THEREOF:

I have heard the Ld. Addl. P.P. for the State and Ld. Defence Counsel appearing for the accused persons. During trial the prosecution has examined the Complainant as PW-3, the Victim Woman as PW-2 and another Witness as PW- 3.

P.W. 3 the Complainant has deposed in his examination-in-chief that the Victim Woman Rehena Akhtar is his sister who married to one Abul Hussain. On the day of the incident he came to know that his sister Rehena was missing but, on search he got to know that she accompanied the accused on the way to Guwahati. He lodged the ejahar (Ext. 2) against the accused. However, the PW 3 deposed in his cross-examination that due to misunderstanding the said ejahar was lodged against the accused, who did not have any criminal intention.

P.W. 2 the Victim Woman Rehena deposed in her examination-in-chief that on the day of the incident the accused took her to Guwahati where both of them slept separately and the accused did not misbehave her at Guwahati. She was brought back to her house by her family members. She deposed that she had undergone medical examination and made statement before Judicial Magistrate (Ext. 2) u/s. 164 Cr.P.C. She further deposed that she was married prior to the incident and living with her husband peacefully. However, PW 2 deposed in her cross examination that the accused was known to her and she had wilfully accompanied the accused to Guwahati for the purpose of sightseeing and also for the purpose of the treatment of her child. The case against the accused was lodged due to misunderstanding. She stated in her cross that she does not like to proceed with the case and has no objection in the release of the accused from the case.

8. This is a case wherein the accused person has been facing trial for the offence punishable U/S. 366 of IPC but the scenario of the prosecution case is that the Informant (P.W. 3) and Victim Woman (P.W. 2) who being the most material witnesses not only have denied the entire prosecution case but also given clean chit to the accused person from the charge. Therefore, I find no merit in the prosecution case. Therefore, after taking evidence for the prosecution as well as after examining the accused person and hearing prosecution & defence on this point, this Court is of the view that there is no evidence that the accused person has committed any offence as mentioned

above. The accused deserves acquittal from the case as per the provision laid down in S. 232 Cr. P.C.

9. In the result, the accused-persons are acquitted u/s 232 Cr.P.C. from the charges U/S. 366 of IPC and set him at liberty.

10. As the accused person is in judicial custody, issue release order forthwith. His bail bond stands discharged, if any. Copy of the Judgment is to be furnished to the District Magistrate, Dhubri.

Judgment pronounced in open court.

Given under my hand & seal of the Court on this the 16th day of September, 2013 at Bilasipara Circuit Court, Bilasipara, Dhubri.

Addl. Sessions Judge
Bilasipara Circuit Court,
Bilasipara, Dhubri

Appendix:

Prosecution Witnesses:-

P.W. 1 = Md. Noor Islam

P.W. 2 = Mosstt. Rehena Aktar

P.W. 3 = Md. Abdul Khaleque

Defence Witnesses: Nil

Prosecution Exhibits:

Ext. 1 = Statement U/S. 164 Cr. P.C.

Ext. 2 = Ejahar

Addl. Sessions Judge
Bilasipara Circuit Court,
Bilasipara, Dhubri

