

IN THE COURT OF THE ADDL. SESSIONS JUDGE ::::::::::: DHUBRI

**Present :- Shri Sutham Das,
Addl. Sessions Judge
Dhubri.**

JUDGMENT IN SESSIONS CASE NO. 76 OF 2016

U/s. 376/366(A)/34 I.P.C.

(Arising out of C.R. Case No. 8465 OF 2014)

State of Assam

Versus

- 1. Ramjan Ali**
- 2. Koromjan Bibi**
- 3. Durjon Ali**
- 4. Zulmot Ali**
- 5. Zobed Ali**
- 6. Fulchand Ali**
- 7. Zakaria**
- 8. Abu Bakkar Siddik**
- 9. Kazi Azahar Ali**
- 10. Yousuf Ali**

A P P E A R A N C E

For the State :- Sri Uttam Kumar Sakar
Addl. Public Prosecutor.
District Dhubri.

For the Accused :- Anam Uddin Ahmed and Ashraful Alom,
Ld. Advocates.

Dates of Evidence :- 03.05.2017.

Date of Argument :- 03.05.2017.

Date of Judgment :- 06.05.2017.

J U D G M E N T

1. Brief facts of the case :-

Complainant Md. Abed Ali of village Nandia lodged a written complaint before Ld. CJM Dhubri alleging inter alia that on 31.07.2014 at about 9 a.m. while his grand-daughter Ms. Kohinur Khatun was going to her school, accused Ramjan Ali induced her and took her to house of one Khalilur Rahman. In the house of Khalilur Rahman, accused Ramjan Ali forcefully had sexual intercourse with her at night. On 1.08.2014 in the morning said Ms. Kohinur Khatun developed physical weakness and then the accused along with accused Karomjan Bibi took her to the house of accused Abu Bakkar Siddik at Fulerchar. In the house of Abu Bakkar Siddik at Fulerchar accused Fulchand Ali, Yousuf Ali, Zobed Ali, Durjon Ali, Zulmot Ali, Zakaria were called and they made arrangement for marriage of Ms. Kohinur Khatun and accused Ramjan. Though, Ms. Kohinur Khatun did not agree to such marriage the accused persons threatened her with dire consequences and got a kabin-nama register by forcibly obtaining Ms. Kohinur Khatun's signature therein. On 10.10.2014 Ms. Kohinur Khatun somehow intimated the complainant about the occurrence and the complainant obtained copy of kabin-nama and called a meeting in his village and on 15.10.2014 a meeting was held but, the accused persons did not turn up and then, the complainant went to Kalapani Police Out-post to file ejahar. The police in Kalapani Out-post refused to accept the F.I.R. and hence complaint was filed before court.

2. The Ld. CJM, Dhubri on receipt of complaint transferred the complaint to Ld. S.D.J.M.(S), Dhubri and Ld. SDJM(S), Dhubri recorded statement of complainant and witnesses as per provisions U/s. 200 Cr.P.C and 202 Cr.P.C. The Ld. S.D.J.M.(S), Dhubri on consideration of the materials on record took cognizance of offence U/s. 366(A)/376/506/342/383 IPC against accused Ramjan Ali and also took cognizance of offence U/s. 120 (B)/366(A)/342/383/506 IPC against accused persons Koromjan Bibi, Durjon Ali, Zulmot Ali, Zobed Ali, Fulchand Ali, Zakaria, Abu Bakkar Siddik, Kazi Azahar Ali, Yousuf Ali issued process and on appearance of the accused persons furnished copies to them and the offences being exclusively triable

by Court of Sessions, the case was committed to the Court of Ld. Sessions Judge and Ld. Sessions Judge transferred the case to this Court for trial.

3. On receipt of the case record and on appearance of the accused persons, this court considered the materials on record and upon hearing both the sides framed charges U/s. 376 IPC against Ramjan Ali and U/s. 366(A)/34 IPC against Koromjan Bibi, Durjon Ali, Zulmot Ali, Zobed Ali, Fulchand Ali, Zakaria, Abu Bakkar Siddik, Kazi Azahar Ali, Yousuf Ali and read over and explained to the accused persons to which they pleaded not guilty.

4. Prosecution in order to bring home the charges against the accused persons, examined 3 (three) witnesses in all.

5. On conclusion of prosecution evidence, the accused persons were examined U/s. 313 Cr.P.C. The circumstances appearing in the evidence against the accused persons was put to them and necessary questions were also put to them. The accused persons totally denied prosecution allegation. However, the defence adduced no evidence whatsoever.

6. **POINTS FOR DETERMINATION**

(i) That you (Ramjan Ali), on 31.07.14 at about 9 AM at village Nandia, Pipulbari under Mankachar Police Station committed sexual intercourse with Kohinur Khatun (grand-daughter of the complainant) against her will, and thereby you have committed an offence punishable under section 376 of the Indian Penal Code which is the within the cognizance of the Court of Sessions.

(ii) That you (Koromjan Bibi, Durjon Ali, Zulmot Ali, Zobed Ali, Fulchand Ali, Zakaria, Abu Bakkar Siddik, Kazi Azahar Ali, Yousuf Ali), on 31.07.14 at about 9 AM at village Nandia, Pipulbari under Mankachar Police Station, in furtherance of common intention, induced the victim-Kohinur Khatun (grand-daughter of complainant) to do any act with intent that the said victim may be or knowing that she will be forced to illicit intercourse with another, and thereby you have committed an offence punishable under section 366(A)/34

of the Indian Penal Code which is the within the cognizance of the Court of Sessions.

7. I have gone through the evidences on record and heard argument of both sides.

DECISION, DISCUSSION AND REASONS THEREOF

8. Prosecution examined three (3) witnesses in all. They are:-

PW-1 :- Kohinur Khatun

PW-2 :- Abed Ali (Complainant)

PW-3 :- Kurpan Ali

9. **PW-1**, Kohinur Khatun has deposed that complainant is her grandfather. She knows the accused persons. They belong to their village. The occurrence took place in the year 2014. On the date of occurrence, the accused persons quarrelling with them on the issue of her marriage. She developed love affairs with the accused Ramjan Ali and there was talk of marriage for which some differences arose. Later on, her grandfather filed ejahar against the accused persons. After filing of the case, again there was patch up and she got married with the accused Ramjan Ali. She is now living with him as husband and wife.

10. **PW-2**, Abed Ali has deposed that he is the complainant of this case. He put thumb impression in the complaint. He knows all the accused persons. Victim Kohinur is his grand-daughter. The incident took place in the year 2014. Victim Kohinur Khatun and accused had love affairs. They also got married. But, some differences arose between the parties and he filed ejahar against the accused persons. At present both the victim and the accused are living as husband and wife.

11. **PW-3**, Kurpan Ali has deposed that complainant is his uncle. Victim Kohinur is his daughter. He knows all the accused persons. There was love affairs between Kohinur and the accused Ramjan. Later on, some differences arose between the parties and his uncle filed ejahar against the accused

persons. At present Kohinur and Ramjan have been living as husband and wife.

APPRECIATION OF EVIDENCE

12. From the discussion of evidence of the PWs, it appears that PW-1 who is the grand-daughter of the complainant had love affairs with the accused Ramjan Ali and in her evidence-in-chief she has stated that there were talk of marriage between both the sides and they could not come to a settlement and eventually some difference arose between two sides which led to filing of this case. However, it is also in the evidence of victim, PW-1 that after filing of the complaint again both the parties came together and settled the issue and she got married with the accused. The complainant has also given evidence in similar tune. Both complainant and the victim in their cross expressed that they may not want to proceed further in this case and if the case ends in acquittal they have nothing to say.

13. Considering the evidence these two vital witnesses, I feel no hesitation to come to the conclusion that there is no case against the accused persons as prosecution has failed to prove the charges against the accused persons.

14. In view of the above, I find the accused persons not guilty. Accordingly, they are acquitted from the charges U/s. 376/366(A)/34 I.P.C. Set them at liberty forthwith. Judgment is pronounced in open Court, the 6th day of May, 2017.

15. Given under my hand and seal of this court on this 6th day of May, 2017.

Dictated & Corrected by me

Addl. Sessions Judge,
Dhubri

(S. Das)
Addl. Sessions Judge
Dhubri