

IN THE COURT OF ASSISTANT SESSIONS JUDGE::UDALGURI, ASSAM

SESSIONS-56/2019

u/s-376 (1)/506IPC

THE STATE OF ASSAM----- Miss 'Y' (Informant/victim).

-Vs-

1. MD SHEKATULLAH &

2. MD HAREZ ALI ----- Accused persons.

PRESENT: NUR MUHAMMAD ABDULLAH AHMED, (LL.M, AJS)

Asstt. Sessions Judge, Udalguri, Assam

APPEARANCE:

(1) MrB. KChetry: LdAddl. PP for the State.

(2) MrNajrul Islam : LdDefenceCounsel.

EVIDENCE RECORDED ON : 17. 08.2019.

ARGUMENTS HEARD ON :17.08. 2019.

JUDGMENT DELIVERED ON :17. 08.2019.

J U D G M E N T

1. The brief facts of the case is that on 08/06/2017one Miss 'Y' (actual name is withheld) lodged an FIR with the OC, Kalaigaon PS stating *inter alia* that her father-in-law Md Shekatullah committed rape on her by taking advantage of absence of her husband. After that the informant apprised her husband Harez Ali and her mother-in-law about the incidnetgbut they did not take any step. It is also alleged that about 15 days back the accused Md Shekatullah entered the room of the informant at about 12 in the night and committed rape on her by threatening to kill her. Hence the case.

2. On receipt of the FIR, KalaigaonPS Case No-54/2017 u/s-120-B/376/506 IPC was registered against the accused persons namely, Md Shekatullah, Md Rahman Ali and Md Harej Ali. Investigation into the case was commenced and after the completion of usualinvestigation, charge-sheet u/s-376/506 IPC was

submitted against the accused Md Shekatullah and u/s-120-B/506/34 IPC against the accused persons namely, Md Rahman Ali, Md Harej Ali and MusttHazeraBibi, to face the trial.

3. In due course, the case was committed to the Court of Hon'ble Sessions Judge, Udalguri by the learnedSDJM, Udalguri and then the case was transferred to this Court for trial.

4. Trial of the case was commenced. The aforesaid accused persons appeared before the Court to face trial. After hearing both the sides and perusing the case record, charges in writing u/s-376(1)/506 IPC were framed against the accused Md Shekatullah and u/s-506 IPC against the accused Md Harez Ali. Other two accused persons namely, Md Rahman Ali andMusttHazeraBibi were discharged. On being read over and explained the contents of the charges under the aforesaid provisions, the accused persons namely, Md Shekatullah and Md Harez Ali pleaded not guilty and claimed to face the trial.

5. Points for Determination:- After considering the materials on record I have found the following points for determination-

I) Whether 15 days prior to 08.06.2017 the accused Md Shekatullah committed rape on the informant Miss 'Y'?

II) Whether the aforesaid accused threatened the informant/victim with death if she disclosed the incident of rape to anyone? &

III) Whether the accused Md Harez Ali threatened to assault the informant/victim when she disclosed to him that his father Md Shekatullah had committed rape on her ?

6. To bring home its charges, the prosecution side examined four(4) witnesses namely, Miss 'Y' (informant/victim) as PW-1, Md Usman Ali as PW-2, Md Nasir Ali and Dr. Shivaji Gupta as PW-4. Prosecution side exhibited the FIR as Ext-1, statement of victim u/s-164 CrPC as Ext-2 and Medical Examination Report of Victim as Ext-3. Considering the nature of evidences adduced by the vital PW like the informant/victim, the Id Addl. PP verbally submitted for the closure of

prosecution evidence. The Court was also convinced that no useful purpose would be served by proceeding with the evidences of PWs on the face of depositions of vital PW and hence the prosecution evidence was closed. Considering the nature of evidence adduced by the vital PW, the examination of the accused persons u/s-313 CrPC was dispensed with. The accused persons declined to adduce defence evidence. I have also heard the argument of both the sides.

APPRECIATION OF EVIDENCE, DECISION AND REASONS THEREOF:

7. To determine the above-mentioned points and to reach a judicial decision on the same, let me now adumbrate the evidences on record.

8. Informant/victim (PW-1) stated in her deposition that the accused Md Shekatullah is her father-in-law and accused Md Harez Ali is her husband. She stated that about two years ago, she had some quarrel with her father-in-law and her husband and then she lodged this case (Ext-1) out of some misunderstanding. PW-1 further stated that she is now living peacefully with her husband in the house of her father-in-law. PW-1 further stated that she did not want to proceed with this case. During cross-examination, PW-1 admitted that they have settled the dispute and since then she is living together with her husband in the house of her father-in-law. PW-1 further admitted that she has no objection if the accused persons are acquitted. PW-2 and PW-3 also deposed that the case was lodged due to some misunderstanding. So, from the aforesaid depositions of the PWs, it is evident that there is no iota of allegation regarding commission of rape by the accused Md Shekatullah on the victim or of any other offences by the said accused along with the accused Md Harez Ali. In such a situation, it can be held that the prosecution has failed to prove that the accused persons have committed offences as were leveled against them. Hence both the points are decided against the prosecution.

9. On the basis of the above adumbration and appreciation of evidences thereof, it can be safely concluded that the prosecution has miserably failed to prove that the accused persons namely, Md Shekatullah and Md Harez Ali

committed the offences as were alleged. As such, the accused persons are acquitted of the charges leveled against them.

10. The bail-bonds for the accused persons would remain in force for the next six (6) months in view of Sec. 437-A CrPC.

11. Given under my hand and seal of this Court on this 17th day of August, 2019.

(NUR MUHAMMAD ABDULLAH AHMED)

Asstt. Sessions Judge, Udalguri, Assam.

APPENDIX

1. PROSECUTION WITNESSES--

i) PW-1:Miss 'Y';

ii) PW-2 : Md Usman Ali;

iii) PW-3 : Md Haris Ali &

iv) PW-4 : Dr. Shivaju Gupta.

2. PROSECUTION EXHIBITS-

i)Ext-1 : FIR ;

ii) Ext-2 : Statement of Victim u/s-164 CrPC&

iii) Ext-3 : Medical Examination Report of the Victim.

3. DEFENCE WITNESSES : Nil.

4. COURT WITNESSES/EXHIBITS : Nil.

(NUR MUHAMMAD ABDULLAH AHMED)

Asstt. Sessions Judge, Udalguri, Assam