

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

**SESSION- 02/2020**

u/s- 376/365 IPC

THE STATE OF ASSAM ----- Musst. Amiran Nesa (Informant).

-Vs-

ACCUSED PERSON ----- Md. Mahammad Ali  
s/o: Abjol Hoque  
Residence: Aminpara,  
P.S.- Rowta  
Dist- Udalguri

PRESENT: NILAKSHI LAHKAR, (L.L.M., A.J.S)  
Asstt. Sessions Judge, Udalguri, Assam

APPEARANCE:

(1) Mr. B. K Chetry : Ld Addl. PP for the State.

(2) Mr. M. C. Narzary : Ld Defence Counsel

EVIDENCE RECORDED ON : 02:03:2020

ARGUMENTS HEARD ON : 16:03.2020.

JUDGMENT DELIVERED ON : 16.03.2020.

**J U D G E M E N T**

1. The brief facts of the case leading to the prosecution of the accused person Md. Mahammad Goni is that the informant Musst. Amiran Nesa had lodged an FIR with the Ekrabari OP by stating inter alia that on 30/9/19 at about 6 PM accused person came with a truck near their house and while her 18 year old daughter Minara Khatun was passing by the truck, the accused forcefully dragged her inside the vehicle by covering her mouth and committed rape on her. The accused person confined the victim whole

night inside the truck and at about 4 A.M. left her in the Sidhakhowa Camp. Hence this case.

2. On receipt of the FIR, Ekrahari OP forwarded the same to the O.C. Rowta PS for registering a case and accordingly, Rowta PS case no. 145/2019, u/s 376/365 IPC was registered against the accused person. Investigation into the case was commenced and after completion of the investigation charge-sheet u/s 376/365 IPC was submitted against the accused person.

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

4. Trial of the case was commenced. The accused Md. Mahammad Goni was appeared before the court to face trial. After hearing both the sides and perusal of the materials available in this case record, charge in writing u/s 376/365 IPC was framed. On being read over and explained the contents of the charge u/s 376/365 IPC, the accused person pleaded not guilty and claimed to face trial.

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

I. Whether the accused person on 30/9/19 at about 6 PM kidnapped or abducted the victim girl Minara Khatun with intent to secretly and wrongfully confine her and thereby committed an offence u/s 365 IPC?

II. Whether the accused person on the same date and time had committed rape on the victim Minara Khatun?

6. To bring home its charges, the prosecution side examined 4(four) witnesses namely Musst. Amiran Nesa (informant) as PW-1, Minara Khatun as PW-2, Md. Jainuddin Ali as PW-3 and Md. Jabbar Ali as PW-4. Considering the nature of the evidences adduced by the vital PWs i.e. the informant and the victim, the Learned Additional Public Prosecutor verbally submitted for the closure of prosecution evidence. The court after perusal of the record was also convinced that no useful purpose would be served by

proceeding with the evidences of PWs on the face of deposition of available PWs and hence, the prosecution evidence was closed. The prosecution side exhibited the FIR as Ext.1. The accused person was examined u/s 313 CrPC wherein his stand was of total denial. The accused person declined to adduce defence evidence. I have also heard the arguments of both the sides.

DECISION, DISCUSSION AND REASONS FOR THE DECISION

7. Let the case be decided on the basis of the evidences available in this case record.
8. **PW-1** Mustt. Amiran Nesa who is the informant stated in her deposition that she knows the informant. She stated that she lodged the complaint by mistake. Now she does not want to proceed with case and has no objection if the accused person is acquitted. She also stated that she put her thumb impression on the FIR, Ext-1.
9. **PW-2** Minara Khatun who is the victim has deposed in her evidence that the informant is her mother. She stated that the complaint was lodged due to misunderstanding. She also stated that she is now married to some other person and she has no objection if the accused person is acquitted.
10. **PW-3** Md. Jainuddin Ali has deposed in his evidence that he knows both the informant and the accused. On that night at about 2:20 AM, Shahjahan Ali spotted Minara Khatun sitting outside his house and informed PW-3. He then informed Minara Khatun's parents and her parents and they came and took her home. Other than that he knows nothing about this case.
11. **PW-4** Md. Jabbar Ali deposed in his evidence that he knows both the informant and the accused. On that day Jainuddin informed him that Minara Khatun was spotted sitting outside of Shahjahan Ali's house. PW-4 then informed Minara Khatun's parents and took her from that place. He has no knowledge of that incident.
12. Having considered the deposition of the PWs as made above it can be seen that none of the prosecution witnesses including the informant and the victim have no objection against the accused person in this case. None of the PWs have made a single

allegation against the accused person for the commission of the alleged offence. Furthermore, the informant Musst. Amiran Nesa as PW1 had stated during her deposition that the FIR was lodged against the accused person due to some misunderstanding. There is no iota of evidence that the accused person had committed the offence as alleged against him. So it can be stated that the prosecution has failed to prove that the accused person had committed the offence u/s 376/365 IPC as was alleged. Hence, points for determination are decided against the prosecution.

11. On the basis of the above adumbration and appreciation of evidences thereof, it can be safely concluded that the prosecution has failed to prove beyond of reasonable doubt that the accused person had committed the offence as was alleged. As such the accused person Md. Mahammad Ali was acquitted of the charge levelled against him and the accused person is set at liberty forthwith.

12. The bail bond for the accused person would remain in force for the next 6(six) months in view of Section 437(A) CrPC.

(NILAKSHI LAHKAR)

Asstt. Sessions Judge, Udalguri, Assam

**APPENDIX**

1. PROSECUTION WITNESSES –
  - i) PW-1: Musst. Amiran Nesa
  - ii) PW-2: Minara Khatun
  - iii) PW-3: Md. Jainuddin Ali
  - iv) PW-4: Md. Jabbar Ali
2. PROSECUTION EXHIBITS –
  - i) Ext.1: FIR
3. DEFENCE WITNESSES: Nil
4. COURT WITNESSED: Nil

( NILAKSHI LAHKAR )

Asstt. Sessions Judge, Udalguri, Assam