

**IN THE COURT OF THE SPECIAL JUDGE (POCSO),**  
**UDALGURI**

**SPECIAL (POCSO) CASE NO 69/2019**

**Present** : **Sri Nisanta Goswami**  
Special Judge (POCSO), Udalguri

**Prosecutor** : **State of Assam**  
Represented by Public Prosecutor, Udalguri

**Accused** : **Sri Ajoy Kr. Chouhan**  
Udalguri

**Counsel for the State:** Sri Rajib Sharma, Addl. P.P

**Counsel for the Accused:** Sri M.C. Narzary, Advocate

**Date of Hearing** : 13.02.2020 & 26.11.2021

**Date of Judgment** : 04.12.2021

**JUDGMENT**

**PROSECUTION CASE:**

1. The case of the prosecution, in brief, is that the informant Sri Ambuj Ruj is a resident of Bellochuburi village in the district of Udalguri. On 15.08.2019 the accused Sri Ajoy Chouhan kidnapped the informant's daughter. At that time the age of the victim girl was only ten days less than eighteen years. The victim girl was a student of class ten at the time of the alleged occurrence.

2. An ejahar was lodged at the Udalguri Police Station on 16. 08.2019. Police registered a case, being Udalguri PS case No 149 of 2019 u/s 366 IPC. Subsequently, Section 376 of IPC and Section 6 of POCSO Act were also added. Police started investigation and after completion of investigation, a Charge Sheet was submitted against the accused Sri Ajoy Kr Chouhan, being CS No 108 of 2019 u/s 366/376 IPC r/w Section 6 of the POCSO Act.
3. After submission of the charge sheet, cognizance of the offences was taken and summons were issued to accused Sri Ajoy Kumar Chouhan. The accused appeared before the Court and charges were framed against the accused under Section 366/376 of IPC read with Section 6 of POCSO Act. The accused pleaded not guilty and claimed to be tried and thus the case proceeded to the trial stage.
4. During the Course of trial two witnesses were examined by the prosecution. The statement of the accused person was recorded u/s 313 CrPC. The defense plea was of total denial. Defense has declined to adduce defense evidence.

**POINTS FOR DETERMINATION:**

5. The following are the points for determination in this case:
  - (I) Whether the accused kidnapped the victim, with intent that she might be forced to illicit intercourse with the accused?
  - (II) Whether the accused on or before 15-08-2019, committed rape on the victim girl?

- (III) Whether the accused committed aggravated penetrative sexual assault upon the victim girl, aged about 17 years?

**DISCUSSION, DECISION AND REASONS THEREOF:**

6. PW1, Ambuj Ruj, the informant of this case, has stated that that the victim girl is his daughter. Accused is his co-villager. On 15-08-2019, in the morning, his daughter went to DC Office field, Udalguri, to attend Independence Day Celebration. But when she did not return back home the PW1 searched for her but found her untraceable. Thereafter, on 16-08-2019, he lodged an FIR before the Police. After 19 days of the incident police rescued the victim girl and on being asked she informed her father that she voluntarily eloped with the accused as she had a love affair with him. PW1 has further stated that now his daughter has been peacefully living her conjugal life with the accused. The FIR has been exhibited as Ext.1.
7. In his cross-examination, the PW1 has stated that after the incident, his daughter got married with the accused. The PW1 has further confirmed that he has no allegation against the accused as his daughter voluntarily eloped with him.
8. PW2 is the victim girl. She has stated that the informant is her father and the accused is her husband. On 15-08-2019, the PW2 eloped with the accused as she had a love affair with him. Then her father lodged an FIR. After 20 days the PW2 and the accused voluntarily surrendered before the police of Udalguri P.S. Though the police

produced her before the Doctor, she refused to undergo medical examination. The PW2 was also produced before the learned Magistrate for recording her statement under Section 164 of CrPC. Again in the month of December, 2019, the PW2 eloped with the accused and got married with him by performing the rites and rituals of social marriage in the house of the accused. Now she has been living her conjugal life peacefully with the accused. The PW2 has exhibited her statement recorded before the Magistrate as Ext.-2. In her cross-examination, the PW2 has stated that at the time of the incident she was aged about 19 (nineteen) years. She had a love affair with the accused and, therefore, she voluntarily eloped with the accused.

9. After recording the evidence of PW1 and PW2, the learned Addl. P.P. submitted that the prosecution would not adduce any further evidence since the accused and the victim are now married and they are living a conjugal life. Learned defense counsel also submitted that the case has already been compromised.

10. In his examination under Section 313 CrPC, the accused has stated that the informant's daughter voluntarily went with him and they got married voluntarily. At the time of her marriage, the victim was a major girl.

11. I have heard the learned counsels for both the parties and perused the materials on record.

12. The evidence reveals that the alleged victim girl voluntarily eloped with the accused and subsequently they got married, observing all the social norms and presently they have been living a happy conjugal life. At the time of her marriage the victim girl had attained majority, hence, there is nothing to hold the accused guilty for the crime with which he was charged. The prosecution case is not proved.

### **ORDER**

13. The accused Sri Ajoy Kumar Chouhan is acquitted of the charges under Section 366/376 IPC R/W Section 6 of POCSO Act and set at liberty forthwith.

14. The bailor for the accused is discharged.

15. Given under my hand and seal of this court on this 04<sup>th</sup> day of December, 2021 in the open Court.

**(Nisanta Goswami)**  
**Special Judge (POCSO)**  
**Udalguri**

**Dictated and Corrected by me:**

**(Nisanta Goswami)**  
**Special Judge (POCSO)**  
**Udalguri**

## **APPENDIX**

(A) Prosecution Exhibits:

Ext.1- FIR

Ext.2- Statement of PW2 (victim girl) under Section 164 CrPC

(B) Materials Exhibits: Nil.

(C) Defense Exhibits : Nil.

(D) Exhibits produced by witness: Nil.

(E) Court Exhibits : Nil

(F) Prosecution witnesses: PW1- Ambuj Ruj.

PW2- Victim girl.

(G) Defense witnesses : Nil.

(H) Court witnesses : Nil.

**(Nisanta Goswami)**  
**Special Judge (POCSO)**  
**Udalguri**