

**IN THE COURT OF THE SESSIONS JUDGE:: DIBRUGARH**

Present: Ms. A. Ajitsaria,  
AJS, Sessions Judge,  
Dibrugarh

Date of judgment: 10.2.2022

**Sessions Case No. 23 of 2020**

FIR No. 115 dtd. 13-05-2019

Barbaruah Police Station Case No. 115/2019 under Section 366 IPC

G.R. Case No. 1800/2019

Complainant:	Sri Cham Khan
Represented by	Smt. Runumi Devi, Public Prosecutor.
Accused	Sri Sanjib Mirdha, S/o- Sri Babu Mirdha, R/o- Bogibeel Miyapatti, PS- Barbaruah Dist. - Dibrugarh.
Represented by	Sri K.K. Gogoi, Advocate.

Date of offence	10-04-2019.
Date of FIR	13-05-2019.
Date of Charge sheet	31-05-2019.
Date of Framing of Charges	11-01-2022.
Date of commencement of evidence	17-02-2022.
Date on which judgment is reserved	Nil.
Date of Judgment	17-02-2022.
Date of Sentence Order, if any	Nil.

Rank of the accused	Name of accused	Date of arrest	Date Release on bail	Offences charged with	Whether acquitted or convicted	Sentenced imposed	Period of Detention Undergone during trial for purpose of Sec. 428 Cr.P.C.
Accused No. 1	Sri Sanjib Mirdha	Nil.	Nil.	366 IPC	Acquitted	Nil.	Nil.

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

1. Accused Sri Sanjib Mirdha is present today. Considering the nature of evidence of prosecution witness and on prayer of the learned Public Prosecutor, evidence of prosecution was closed and statement of the accused person u/s 313 CrPC recorded.
2. I have heard arguments advanced by the Learned Public Prosecutor and learned Counsel Mr. K.K. Gogoi. From the entirety of the materials on record, I am of the considered opinion that it is a fit case for exercising powers under section 232 CrPC by passing an order of acquittal without calling upon the accused to enter into defence.
3. The prosecution case, in a nutshell, is that on 13-05-2019, Sri Cham Khan lodged an FIR at Barbaruah P.S. stating inter alia, that on 10-04-2019, at about 8:30 PM, his niece Smt. 'X' eloped with one Sri Sanjib Mirdha. After Bogibil OP GDE No. 221 dtd. 12.05.2019 was recorded, the said FIR was forwarded to Barbaruah Police Station and accordingly Barbaruah PS Case No. 115/2019 under Section 366 IPC was registered and investigation commenced. On completion of the investigation, the I/O submitted charge sheet u/s 366 IPC against the accused Sri Sanjib Mirdha.
4. The learned Chief Judicial Magistrate, Dibrugarh after complying with the provisions of Section 207 CrPC, committed the case for trial before the Sessions Judge.
5. Upon considering the documents forwarded under Section 173 CrPC and after hearing both the sides, charge under Section 366 IPC was framed and explained to the accused person, to which he pleaded not guilty and claimed to stand trial.
6. During trial, prosecution examined one witness, the victim.
7. PW1 Smt. 'X', the alleged victim, deposed that the accused is her husband and the informant is her uncle. PW 1 stated that her uncle had lodged the FIR as she, being in love with the accused had eloped with him. Subsequently, the police brought, both her and the accused back from the

house of one Jagan Mirdha, produced her in Court where her statement being Ext 1 was recorded. PW 1 further stated that she was also taken for medical examination but she had not give her consent for medical examination. PW 1 categorically stated that her uncle (Mama) inpite of knowing that the present case was fixed for evidence today had declined to come to the Court to adduce evidence as he was still annoyed with her for having married the accused.

8. In cross-examination by defence, PW1 admitted that she had eloped on her own volition and the accused had neither induced her nor kidnapped her. PW 1 further stated that she was an adult at the time of occurrence and therefore she had right to take her own decision. PW1 further stated that she is happily married with the accused and both of them are living together as husband and wife.

9. From the evidence of the PW-1/the alleged victim 'X', it is seen that she had voluntarily left her home and eloped with the accused. In Ext 1, her statement u/s 164 CrPC too, PW 1 had stated in a similar manner, thus showing the consistency in her stand. Before the learned Magistrate, PW 1 had declared her age to be twenty years and deposed that she had married the accused two months back (statement recorded on 13.5.2019) and the family members of the accused had accepted her as their daughter in law.

10. Thus, it is seen that the alleged victim girl was a major at the time of the occurrence and there is no evidence to show that the accused by force compelled or used deceitful means or induced X to go away from her house and be with him. On the contrary, all the documents on record show that the alleged victim "X" was above the age of eighteen years and as stated by her in evidence before the Court, she voluntarily decided to elope and marry the accused person.

11. From the materials on record, it is clear that no case for holding the accused person namely, Sri Sanjib Mirdha guilty under section under Section 366 IPC is made out.

12. Considering the matter in its entirety, it can safely be concluded that prosecution has failed to bring home the charge under Section 366

IPC against the accused person namely, Sri Sanjib Mirdha. The said accused person, Sri Sanjib Mirdha is therefore acquitted of the said charge and set at liberty.

13. Considering the facts of the instant case, this matter is not referred to District Legal Services Authority for granting compensation u/s 357A Cr.P.C.

14. Bail bond of Sri Sanjib Mirdha shall remain in force for a period six months in terms of section 437 A CrPC.

15. Send a copy of the order to Learned District Magistrate, Dibrugarh u/s 365 Cr.P.C

16. Order is pronounced in open court.

Signed, sealed and pronounced in open Court, in the presence of both sides, on this the 17<sup>th</sup> day of February, 2022.

Sessions Judge,  
Dibrugarh.

**APPENDIX**

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

**A. Prosecution:**

<b>Rank</b>	<b>Name</b>	<b>Nature of evidence</b> (eye witness, police witness, expert witness, medical witness, panch witness, other witnesses)
PW1	Smt. 'X'	Victim girl

**B. Defence Witnesses, if any:** Nil.

**C. Court Witnesses, if any:** Nil.

**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**

**A. Prosecution:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1	Exhibit P-1/PW1	Statement under Section 164 CrPC.
2	Exhibit P(1), 1(2)/PW1	Signatures of the victim, Smt. 'X'.

**B. Defence:** Nil.

**C. Court Exhibits:** Nil.

**D. Material Objects:** Nil.

Sessions Judge,  
Dibrugarh