

**IN THE COURT OF THE ASSISTANT SESSIONS JUDGE,
DIBRUGARH**

District- Dibrugarh.

Sessions Case No. 03 of 2022
U/S. 366 of I.P.C.

Present : Smti. Monalissa Das
Assistant Sessions Judge, Dibrugarh



Wednesday, the 6th day of April, 2022

State of Assam

-Vs-

Sri Akash Das @ Biki
Son of Sri Mahesh Das
Resident of Puhari Khania Gaon,
P.S. Barbaruah
District- Dibrugarh, Assam.**ACCUSED**

Dates of recording evidence : 04.04.2022.
Date of hearing Argument : 04.04.2022.
Date of Judgment : 06.04.2022.

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For the prosecution : Smti. P.B. Dahotia, Ld. Addl.
P.P.

For the defence : Mr. Vikash Kumar, Ld.
Advocate.

JUDGMENT

- 1.** The case of the prosecution as revealed from the materials available on record, in brief is that, on 10.11.2018 at about 12.30 p.m. the alleged victim namely, Smti. Usha Singh eloped with the accused Sri Akash Das. Hence mother of the victim lodged the FIR and came up with instant case.
- 2.** In this regard, the mother of the alleged victim namely, Mrs. Monika Singh lodged an ejahar with the In-charge, Milan Nagar Police Out Post, Dibrugarh and the same was registered vide Dibrugarh P.S. Case No. 1822/2018 dated 16.11.2018 U/S 366 of I.P.C.
- 3.** During the course of investigation, police recovered the victim girl, made arrangement for recording her statement U/S. 164 Cr. P.C. and also for her medical examination. After the



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investigation is over, finding materials the Investigating Officer submitted the charge-sheet against the accused person U/S. 366 of I.P.C.

4. On procuring the attendance of the accused person, learned Judicial Magistrate First Class, Dibrugarh, furnished the accused person with copies as required U/s. 207 Cr .P.C. and as the offence U/s. 366 of I.P.C. is exclusively triable by a Court of Sessions, committed the case before the Hon'ble Sessions Judge, Dibrugarh who in turn, was pleased to assign this Court for disposal of the same.

5. In support of the case, prosecution examined as many as 2 (Two) Nos. of witnesses such as :

P.W.1 : Smti. Monica Singh

P.W.2 : Smti. Usha Singh

6. **POINT FOR DETERMINATION : *Whether on 10.11.2018 at about 12:30 p.m. the accused person induced the alleged victim Smti. Usha Singh who was aged***



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about 18 years to go with him with intent that she would be seduced or compelled to sexual intercourse with other person and thereby committed an offence U/S 366 of IPC?

7. Learned Addl. Public Prosecutor referring to the materials available on records, submits that although the victim in her statement recorded U/s. 164 Cr. P.C. stated that she was in love with the accused person, her such statement cannot be treated as evidence. It is submitted that apparently, the victim girl was a minor and therefore, considering the facts and circumstances, the accused person may be punished in accordance with law.

8. DISCUSSION, DECISION AND REASONS THEREFOR :

I have heard the learned counsel for the parties. Also perused the record. On perusal of the materials available on record and hearing the learned counsel for the parties, I am of the considered opinion to hold as follows :

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9. The informant, Smti. Monika Singh as P.W.1 in her evidence-in-chief stated that her daughter Smti. Usha Singh eloped with the accused and being emotional and out of misunderstanding she lodged the instant case. PW.1 further stated that victim was a major at the time of elopement.

The P.W.2, Smti. Usha Singh who is the victim girl in her evidence-in-chief stated that she eloped with the accused voluntarily as she had a love affair with him. Now she is living happily with the accused as his wife along with their newly born daughter.

PW.1 and PW.2 in their cross-examination stated that they do not have any objection if the accused gets acquitted.

10. To invoke punishment U/s. 366 I.P.C. the prosecution is required to establish that at the relevant time, the accused person induced the alleged victim by any means to go with him and that the accused person took away the alleged victim with intent that she would be



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forced or seduced to illicit intercourse, but from the evidence of the victim and her informant father it came into light that the alleged victim was not forced by the accused to go with him at any point of time, rather, she went with him on her own will. The victim who is the daughter of the informant stated that she got married to the accused without the consent of her father, so due to misunderstanding he filed the instant case. Lastly, the alleged victim in her evidence before this court categorically stated that she got married with the accused at the age of 18 and out of their wedlock they have a minor son and they are living amicably. As such, it is clear that there is no ingredient of the offence U/s. 366 I.P.C is made out.



- 11.** As no incriminating material is found against the accused, Id. Addl. P. P. prayed for closure of P.W.s as it will not help the merit of case anymore. Accordingly, P.W.s was closed.
- 12.** Criminal justice delivery system requires that to hold a person guilty of any offence, the

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prosecution must prove the guilt beyond all reasonable doubt and if any doubt arises, the benefit must be given to the accused person. But in the case in hand, from what has been stated above, it is clear that the prosecution has failed to substantiate the accusation leveled against the accused person. Prosecution has miserably failed to bring any incriminatory materials to show that the accused person took away the alleged victim forcefully or that he took her away with intent that she would be seduced or compelled to illicit intercourse with another person. In such a situation, the accused person is entitled to get the benefit. Accordingly, the accused Sri Ajit Raut @ Kulu is hereby acquitted from the charge on benefit of doubt and he is hereby set at liberty forthwith.



- 13.** Bail bond furnished by the accused person and by his surety, shall remain in force for a period of 6 (six) months from today. Unless otherwise directed, the same shall be treated as discharged after the expiry of the aforesaid period.

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14. Accordingly instant Sessions case is disposed of . . .

Send a copy of this judgment to the learned District Magistrate, Dibrugarh as required U/S 365 Cr. P. C.

Given under my hand and seal of the Court on this 6th day of April, 2022.

Dictated & corrected by me,



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APPENDIX

A. Prosecution witnesses :

P.W.1 : Smti. Monika Singh

P.W.2 : Smti. Usha Singh

B. Documents exhibited by the prosecution :

NIL

C. Defence Witness & Exhibit : NIL



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