

IN THE COURT OF THE SESSIONS JUDGE:: DIBRUGARH

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

Date of judgment: 06-04-2022

Sessions Case No. 186 of 2021

FIR No. 84 dtd. 17-02-2020

Duliajan Police Station Case No. 84/2020 under Section 366 IPC

G.R. Case No. 669/2020

Complainant:	Sri Gopal Pradhan, S/o- Late Dal Chandra Pradhan, R/o- No. 2 Dirial Gaon, PS- Duliajan, District- Dibrugarh, Assam.
Represented by	Smt. Runumi Devi, Public Prosecutor.
Accused	Sri Madan Rai, S/o- Late Josh Pradhan Rai, Borpathar No. 1 Tengoni Gaon, PO- Bil Gaon, PS- Duliajan, District- Dibrugarh, Assam.
Represented by	Sri Raju Sarmah, Advocate.

Date of offence	16-02-2020.
Date of FIR	17-02-2020.
Date of Charge sheet	29-02-2020.
Date of Framing of Charges	10-01-2022.
Date of commencement of evidence	06-04-2022.
Date on which judgment is reserved	Nil
Date of Judgment	6-04-2022
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 Madan Rai	20-02-2020	23-03-2020	366-A IPC	Acquitted	Nil.	20-2-2020 to 23-3-2020

J U D G M E N T

1. Accused Sri Madan Rai is present along with his learned Counsel. Considering the nature of evidence of PW1, PW2, PW3 and on prayer of the learned Public Prosecutor, evidence of prosecution is 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 for the accused. 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. Prosecution case in brief is that, an FIR was lodged on 17-02-2020 by Sri Gopal Pradhan to the effect that his minor daughter Smt. 'X' had gone out for her tuition classes in the morning, but she did not return home. On enquiry he had learnt from his neighbours that the accused had taken away his daughter. The FIR was registered as Duliajan PS Case No. 84/2020 under Sections 366 IPC and investigation commenced. On completion of the investigation, the I/O submitted charge sheet under Section 366 IPC against the accused person.
4. 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-A 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 altogether three witnesses, including the informant and the victim.
7. PW-1 Sri Gopal Pradhan, informant and father of the victim, stated that accused Madan Rai is his son-in-law and that his daughter "X" was married to the said accused. PW-1 further stated that occurrence had

taken place in the year 2020. His daughter had gone for tuition, but she had not returned; later he learnt that the accused had taken away his daughter, and, as such, he had lodged FIR (Ext. 1) by endorsing his signature [Ext. 1(1)]. PW-1 further stated that later, police recovered his daughter and she was produced in the Court. Subsequently, after completing her studies, his daughter again left his house and married the accused person and at present, both are living together as husband and wife.

8. In cross-examination, PW-1 admitted that his daughter had voluntarily eloped with the accused. PW-1 further stated that as the accused and his daughter are now happily married, he did not wish to continue with the case. PW 1 admitted that at the time of occurrence, age of his daughter could have been 18 years and that he was not sure as to her exact age.
9. PW-2 Smt. 'X', the victim, stated that accused Madan Rai is her husband. Occurrence had taken place about two years back. She had eloped with the accused whereafter her father lodged an FIR and she was brought back to her parent's house by the police. At that time, she was also produced in the Court and her statement (Ext. 2) recorded wherein she had signed [Ext. 2(1) to Ext. 2(2)]. PW-2 further stated that subsequently, after completion of her studies, she again eloped and married the accused and at present she was living happily as his wife. PW-2 further stated that at that time, she was about 17 years of age and that she had declined medical examination.
10. In cross-examination, PW-2 stated that the accused had not forced her to go with him and she had eloped with him voluntarily as she was in love with him. PW-2 further stated that her age could have been 18 years at the time of occurrence and at present, she was living peacefully with the accused.
11. PW-3 Smt. Padma Urang, deposed that "X" had eloped with the accused about two years back and father of "X" had lodged an FIR in this regard. Subsequently, police recovered "X", however, after completion of her

studies, she again eloped with the accused and married him. Defence declined to cross-examine this witness.

12. From the evidence of the informant, PW 1, the father of "X"/PW 2, it is seen that "X"/PW 2 had voluntarily left her parent's house and eloped with the accused. After FIR (Ext 1) was lodged by PW 1, police recovered "X" and brought her back. Subsequently, "X" again, after completion of her studies, eloped and married the accused. PW 2, too has deposed on the same lines. The fact remains that, at present, both the accused and PW 2 are living as husband and wife. From Ext. 2, statement of "X" u/s 164 CrPC too, it is seen that PW-2 has been consistent in her stand that she had willingly gone with the accused. Thus, there is no evidence on record to establish that the accused person tried to induce or abduct PW 2. In so far as the age of "X" is concerned, it is seen that though it has been stated in the FIR that "X" was a minor at the time of occurrence, nevertheless there is nothing on record to suggest that "X" was in fact a minor at the time of occurrence. On the contrary, during their deposition, both PW 1 and "X" have stated that her ("X"'s) age could have been 18 years. "X" having declined medical examination, no medical evidence too is available on record in this regard.
13. From the materials on record, it is clear that no case for holding the accused person namely, Sri Madan Rai guilty under section under Section 366-A IPC is made out.
14. Considering the matter in its entirety, it can safely be concluded that prosecution has failed to bring home the charges under Section 366-A IPC against the accused person namely, Sri Madan Rai. The said accused person, Sri Madan Rai is therefore acquitted of the said charge and set at liberty.
15. Order is pronounced in open court.
16. Send a copy of the order to learned District Magistrate, Dibrugarh under Section 365 CrPC.

17. The judgment is signed, sealed and pronounced in open Court, in the presence of both sides, on this the 6th day of April, 2022.

Sessions Judge,
Dibrugarh.

APPENDIX

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

Rank	Name	Nature of evidence (eye witness, police witness, expert witness, medical witness, panch witness, other witnesses)
PW1	Sri Gopal Pradhan	Informant
PW2	Smt. 'X'	Victim
PW3	Smt. Padma Urang	Other witness

B. Defence Witnesses, if any: Nil.

C. Court Witnesses, if any: Nil.

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Exhibit P-1/PW1	FIR
	Exhibit P-1(1)/PW1	Signature of Sri Gopal Pradhan.
2	Exhibit P-2/PW2	Statement of the victim/X under Section 164 CrPC
3	Exhibit 2(1) and Ext. 2(2)/PW2	Signature of the victim Smt. 'X'.

B. Defence: Nil.

C. Court Exhibits: Nil.

D. Material Objects: Nil.

Sessions Judge,
Dibrugarh