

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, LAKHIMPUR,  
NORTH LAKHIMPUR, ASSAM**

Present: Sri Akhtabul Ala, AJS,  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur, Assam

**G.R. 152/2018**

Under section 365 of the Indian Penal Code

**State of Assam**

**-Vs-**

**Sri Pankaj Kumar Das**

.....Accused

person

Date of framing charge : 30.09.2019  
Date of recording evidence of PW : 06.03.2020  
Statement u/s 313, Cr.P.C recorded on : 23.12.2020  
Date of argument : 23.12.2020  
Date of judgment : **23.12.2020**

**Advocates appeared in the case:-**

Mrs. Ajanta Sharma Baruah, Addl. P.P., for the State

Mr. Giasuddin Ahmed, Advocate, for the accused

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

1. The prosecution case, in brief, is that on 17.01.2018 one Smti. Kalyani Dutta had lodged an ejahar before the Officer-in-charge of Narayanpur Police Station alleging inter alia that on that day at about 8:30 AM while she was going to her working place, then at Narayanpur Town the accused Sri Pankaj Kumar Das had tried to kidnap her and forcibly take her along with him. Hence, the case.

2. The Officer-in-charge of Narayanpur Police Station, on receipt of the ejahar, registered a case vide Narayanpur PS Case No. 18/2018 under section 366/511 of the Indian Penal Code and got the investigation into the case commenced. The investigating officer, after

completing the investigation, submitted charge-sheet under section 366/511 of the Indian Penal Code against accused Sri Pankaj Kumar Das to stand trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offence under section 366/511 of the Indian Penal Code was taken as per section 190(1)(b) of the Code of Criminal Procedure. The accused entered his appearance before the Court after receiving the summons. Copies were furnished to the accused as per provision contained in section 207 of the Code of Criminal Procedure and the offence against the said accused being that of under section 366 of the Indian Penal Code this case was committed to the Court of the Hon'ble Sessions Judge, Lakhimpur, North Lakhimpur for trial. The Hon'ble Sessions Judge, Lakhimpur, North Lakhimpur thereafter vide order dated 25.02.2020 observed that the charge in this case is in fact that of section 365 of the Indian Penal Code and accordingly framed charge under said section and the contents of the same was read over and explained to the accused to which he pleaded not guilty and claimed to be tried and this case was thereafter sent back to the Court of learned Chief Judicial Magistrate, Lakhimpur, North Lakhimpur, the offence under section 365 of the Indian Penal Code being Magistrate triable. Accordingly, this case was taken up for trial in the instant Court. Charge was already framed in this case under section 365 of the Indian Penal Code by the Hon'ble Sessions Judge, Lakhimpur, North Lakhimpur and as such this case proceeded for evidence.

**POINT FOR DETERMINATION :**

4. The point which is required to be determined for a just decision of this case is as follows:

(a) Whether the accused on 17.01.2018, at about 8:30 AM had kidnapped the informant Smti. Kalyani Dutta from Narayanpur town ?

5. During the trial the prosecution side examined only one witness viz. Smti. Kalyani Dutta as PW-1. The prosecution had exhibited the ejahar as Ext-1 and the signature of the informant therein as Ext-1(1).

6. After the closure of the prosecution evidence, the statement under section 313 of the Code of Criminal Procedure was recorded. The defence plea is of total denial and the defence side declined to adduce evidence in defence.

7. Both the sides advanced their respective arguments in this case.

**DISCUSSION, DECISION AND REASONS THEREOF:**

8. Now in order to decide the aforesaid point of determination let us go through the evidence available on record.

9. PW-1 Smti. Kalyani Dutta, the informant, in her evidence had deposed that the accused Sri Pankaj Kumar Dutta is her ex-husband. While her divorce case was still pending in the Court of Hon'ble Sessions Judge, Lakhimpur, North Lakhimpur she was living separately from the accused that time. Then on 17.01.2018 at about 8:30 AM when she was going to Panbari M.E. School where she worked as an Assistant Teacher and got down from the bus at Narayanpur Bus stoppage the accused also came there and they got face to face. Thereafter, they had a verbal altercation between themselves and she later out of anger and misunderstanding had lodged an ejahar against the accused.

10. PW-1 in her cross-examination stated that the accused in fact had never tried to kidnap her and she has no objection if the accused is acquitted as this case arose only out of a misunderstanding.

11. So from the evidence of PW-1 it can be seen that she has totally disowned the prosecution case and has absolved the accused by saying that she had only a mere verbal altercation with the accused and nothing else and that he never tried to kidnap her.

12. So from the evidence on record no offence is made out against the accused and as such it can no way be held that the accused had tried to kidnap the informant.

13. Hence, the aforesaid point of determination is held in negative.

14. The prosecution as such has failed to prove the case against the accused under section 365 of the Indian Penal Code and as such he is acquitted from the said offence and is set at liberty.

Bail bonds are extended to for the further 6(six) months from today.

The judgment is delivered and operative part of the same is pronounced in the open court on this 23<sup>th</sup> day of December, 2020.

**(Shri Akhtabul Ala)**  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur

Dictated & corrected by me-

**(Shri Akhtabul Ala)**  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur

Transcribed & typed by-  
Sri Narayan Chetri, Stenographer

Contd. .... Appendix

**A P P E N D I X**

**WITNESSES FROM THE PROSECUTION SIDE**

Smti. Kalyani Dutta (PW-1)

**PROSECUTION EXHIBIT**

Ejahaar (Ext-1)

Signature of the informant [Ext-1(1)]

**WITNESSES FROM THE DEFENCE SIDE**

Nil

**DEFENCE EXHIBIT**

Nil

**( Shri Akhtabul Ala )**  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur