

Sessions Case No.65(NL)2018.

05.01.2021.

Accused, Sri Pulakjyoti Hazarika is present today.

Two witnesses present were examined and discharged.

The witnesses did not implicate that the accused is complicit. The victim herself and the complainant did not implicate that the accused is guilty of the alleged offence.

The statement of the accused is recorded, and I have heard both the sides.

It will be apposite to dispose of this case as per Section 232 of the Code of Criminal Procedure (CrPC in short) as the other witnesses are not present today.

The prosecution case, in nutshell, is that on 11.08.2017 at about 9.30 am, the victim X, who was 19 years of age did not return home after attending her classes in the college. An ejahar regarding this incident was lodged by the victim's mother, 'Y', which was registered as Bihpuria PS Case No.715/2017 u/s 366 of the Indian Penal Code (IPC in short).

The Investigating Officer (I.O. in short) embarked upon the investigation. He forwarded the victim to the Magistrate, who recorded her statement u/s 164 CrPC. The victim was also forwarded to the Medical Officer, who examined her. The I.O. went to the place of occurrence, prepared the sketch map and

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recorded the statements of the witnesses. On finding prima facie materials, the I.O. submitted the charge-sheet against the accused u/s 366 IPC. On appearance of the accused, copies were furnished and this case was committed for trial vide order dtd. 26.03.2018, passed by the learned Addl. Chief Judicial Magistrate, Lakhimpur, in GR Case No.2382/ 2017.

After hearing both the sides, a formal charge u/s 366 IPC was framed, read over and explained to the accused, to which he pleaded not guilty and claimed to be tried.

POINTS FOR DETERMINATION

Whether on 11.08.2017, at about 9.30 am, the accused abducted the victim 'X' with intent that she might be compelled to marry against her will or she might be forced and seduced to illicit intercourse?

DECISION THEREON AND THE REASONS FOR THE DECISION

The informant, 'Y' testified as PW.1 that the victim 'X' is her daughter. At the time of the incident on 13.08.2017, her daughter was studying B.A. at Bihpuria College. One day, her daughter went to the college and did not return home. Then, she lodged the ejahar with the police on 13.08.2017. Ext.1 is the FIR and

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Ext.1(1) is her signature. Later, she found her daughter and she learnt that she (victim 'X') came on a trip to Lakhimpur. The victim told her that she came to Lakhimpur with her friend. She lodged the ejahar on the same evening. When her daughter did not return home, the ejahar was lodged on suspicion. She did not know what is written in the FIR. After one day, her daughter returned home. The police recorded her daughter's statement and she stated that she went for a visit to her friend's house. Her daughter was around 19 years of age at the time of the incident. In her cross-examination, she stated that as she was enraged due to her daughter's disappearance, she lodged the ejahar on suspicion without mentioning any body's name. She has no objection if the accused is acquitted from this case.

The victim 'X' testified as PW.2 that 'Y' is her mother. At the time of the incident, she went with her friend to meet her boy friend. After one day, she returned home. Her mother, then, lodged the ejahar with the police. The police recorded her statement and forwarded her to the Magistrate, who recorded her statement. She proved her statement, Ext.2 wherein Ext.2(1), 2(2) and 2(3) are her signatures. The police also forwarded her for

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medical examination. In her cross-examination, she stated that she has no objection if the accused is acquitted from this case because this case was lodged by her mother when she (victim) went missing and when she (victim's mother) was enraged, even though the accused is innocent.

After careful scrutiny of the evidence of both the witnesses, it can be safely held that there is no incriminating evidence that the accused induced the victim to go with him from her college, in order that she may be forced to marry any person against her will. The victim's evidence clearly depicts that the victim returned home on the following day. The victim's mother was enraged as the victim went missing from her college and on suspicion, she lodged the ejarah, as the evidence reveals. The victim failed to mention the name of her boy friend. Her evidence depicts that she came to Lakhimpur with her friend on her own volition to meet her boy friend. The age of the victim was 19 years at the time of the incident. The accused cannot be held guilty of inducing any minor or abducting any woman as there is no evidence of abduction or kidnapping. The victim's evidence depicts that she went to meet her boy friend along with her friend on her own

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volition. It is true that the incident arose, as the victim failed to take her mother's permission. The accused cannot be saddled with the offence of kidnapping or abduction on surmises. As the victim failed to mention her boy friend's name, the accused gets the benefit of doubt. It is, thereby, held that the prosecution failed to prove beyond a reasonable doubt that the accused kidnapped or abducted the victim 'X' to forcefully marry her or seduce her to illicit intercourse.

Therefore, the accused, Sri Pulakjyoti Hazarika is acquitted from the charges u/s 366 IPC, on benefit of doubt, and accordingly he is set at liberty forthwith.

The bail bond stands discharged.

Sessions Judge,
Lakhimpur, N.L.