

**IN THE COURT OF SPECIAL JUDGE (POCSO), LAKHIMPUR,
NORTH LAKHIMPUR.**

Present :- Smti Rashmita Das, Special Judge (POCSO).
(09.03.2022)

Special (POCSO) Case No.105/2018.

(Details of FIR/Crime and Police Station)

Complainant:	STATE OF ASSAM
Represented by	Ld. Special P.P.
Accused	Sri Lakhindra Das (A1)
Represented by	Mr. D. Borah, Ld. Advocate.

Date of Offence	25.06.2018
Date of FIR	25.06.2018
Date of Charge sheet	31.08.2018
Date of Framing of Charges	10.12.2018
Date of commencement of evidence	22.02.2022
Date on which judgment is reserved	Nil
Date of Judgment	09.03.2022
Date of the Sentencing order, if any	

Accused Details:

Rank of the Accused	Name of the Accused	Date of Arrest	Date of released on bail	Offences charged with	Whether Acquitted or convicted	Sentences imposed	Period of detention during Trial for purpose of Sec.428 Cr.P.C.
AI	Sri Lakhindra Das	05.08.18	10.12.18	U/s-366 of IPC & Sec.8 of POCSO Act.	Acquitted	Does not arise.	127 days

J U D G M E N T

1. The prosecution case, in brief, is that on 25.06.2018, informant Sri Balubhadra Das had lodged an ejahar at North Lakhimpur P.S. alleging, inter- alia, that on the previous day at about 6:00 p.m., his daughter i.e. the prosecutrix (aged about 13 years) became untraced, when she went to bring some goods from the shop and later on, he came to know that his said daughter had been taken away forcefully by four boys by putting her into a tempu and subsequently, on that day, i.e. 25.06.2018 they recovered the victim girl along with the accused person namely, Sri Lakhindra Das from the village Dolpata under Panigaon P.S.

2. On receipt of the ejahar, the O/C of North Lakhimpur P.S. registered a case vide N.L. P.S. Case No.683/2018, u/s- 366(A)/34 of IPC, R/w Sec.4 of POCSO Act. Thereafter, the police conducted the investigation of the case and after completion of the investigation submitted Charge-sheet u/s- 366/ 354(A) of IPC against the accused person Sri Lakhindra Das (A1).

3. On appearance of the accused (A1) before the Court of the then Hon'ble Special Judge, Lakhimpur, North Lakhimpur, copies were furnished to him and after hearing Ld. Advocates of both sides and perusing the materials on record, framed charges against the accused person under section- 366 of IPC & Sec.8 of POCSO Act. The particulars of the charges were read over and explained to the accused to which he had pleaded not guilty and claimed to be tried. In the meantime, after framing the charges, the case record was transferred to this Court for disposal at the

stage of evidence.

4. During trial before this Court, the prosecution has examined as many as 4 (four) witnesses including the informant & victim. Considering the stand of the witnesses examined as well as at the instance of Ld. Special P.P., the prosecution evidence is closed. The accused (A1) is examined under section 313 of the Cr. P.C. The pleas of the accused person are of total denial and he has declined to adduce any defence evidence.

5. **POINTS FOR DETERMINATION:**

*i) Whether the accused (A1) on 24.06.2018 at about 6:00 P.M. at village- No.2 Kuhimari under North Lakhimpur P.S, had kidnapped (or abducted) the prosecutrix (aged about 12 years), daughter of informant Sri Balubhadra Das, with intent that she might be compelled (or knowing it likely that she might be compelled to) marry you against her will or in order that she might be forced (or seduced) to illicit intercourse with you, and thereby committed an offence punishable under section **366 of IPC**, as alleged?*

*ii) Whether the accused (A1) on the same date, time and place, after kidnapping the prosecutrix, had committed sexual assault on her person at somewhere else, and thereby committed an offence punishable under section **8 of POCSO Act**, as alleged?*

DISCUSSIONS, DECISION & REASONS THEREOF:

6. I have carefully perused the evidence and the materials available in the case record. Heard arguments advanced by the Ld. Advocates of both sides. Now, let us examine the evidence on record to decide the case at hand.

7. PW.1, the prosecutrix has deposed that the informant Balubhadra Das is her father. She knows the accused Lakhindra

Das. Her father lodged the ejahar of this case about 2 years back regarding her missing from home. Actually, she went to her friend Deha's house on that day. As she did not inform anybody in her home her father due to some misunderstanding lodged this case. When she came to know about the lodging of the ejahar, she came back home. Police recorded her statement and got her medical examination done. Her statement was also recorded under section 164 of CrPC in the court. Ext. P-1 is statement U/s 164 CrPC and Ext. P-1(1) to P-1(5) are her signatures.

In cross- examination, PW1 has stated that she voluntarily went to the house of her friend. She stated before police and the statement recorded U/s 164 CrPC as tutored by her father and family members. She has already married to one Raju Das of Kumarkata. A male child was also born due to her wedlock with Raju Das. The age of her son is 1 ½ years. She does not want to proceed with the case against the accused person any further. This case was lodged out of misunderstanding.

8. PW.2, Sri Balubhadra Das (informant), has deposed that he is the informant of this case. The victim girl is his daughter. He knows the accused person Lakhindra Das. He does not remember the date and year of his lodging the ejahar in the police station. One day, his daughter was missing from their house. He could not find out her, so he lodged the ejahar. The ejahar was written by someone else. He only put his signature thereon. Ext.P-2 is the ejahar and Ext.P-2(1) is his signature thereon. on next day, his daughter came back to his house and on being asked, she told him that she actually had gone to her

friend's house. Ext.P-3 is the seizure list and Ext.P-3(1) is his signature thereon.

In cross- examination, PW2 has stated that the FIR was lodged due to some misunderstanding.

9. PW3, Smti Sunu Das (wife of informant) has deposed that the victim girl is her daughter. She came to know the accused (A1) after the incident, but prior to it, she did not know him. The occurrence took place about 3 years back. When the victim girl became disappeared from the house and they could not find out her, then, her husband lodged a case in the Police Station. But, on next day, her victim daughter was recovered. On being asked, the victim told her that she was not kidnapped by anybody, rather she had gone to the house of her friend for purpose of travelling. The police asked her and her victim daughter about the alleged incident.

In cross- examination, PW3 has stated that at the time of occurrence, she was not at home. The police only asked her name and address after the incident.

10. PW4, Smti Pinkumoni Das has deposed that she knows the informant Balubhadra Das as well as his victim daughter. She does not know well the accused (A1). The occurrence took place in the years 2017- 2018. She does not know about the alleged incident in detail. She also deposed that she got married to a person of 11-Mile and at the time of occurrence, she was at 11-Mile and hence, she did not know about the alleged incident. When she was in her paternal home, the police went there and asked her name and address only.

Appreciation of evidence:

11. Here in the instant case, the prosecution has examined 4 (four) witnesses including the prosecutrix as PW1 and informant as PW2, who are the vital witnesses in this case.

12. The prosecutrix, in her examination-in-chief as PW1, has deposed that on the day of occurrence she had gone to her friend Deha's house and as she did not inform anybody in her home her father due to some misunderstanding lodged this case, but when she came to know about the lodging of the ejarah, she herself came back home. On the other hand, the prosecutrix has categorically stated in her cross-examination that she had voluntarily gone to the house of her friend. She has also stated that she had stated in her statements given before the police as well as in her statement recorded U/s 164 CrPC as tutored by her father and family members. Further, she has stated that she has already married to one Raju Das of Kumarkata and a male child was also born out of such wedlock and a male child was born to her who is now 1½ years old. Moreover, she has stated that as this case was lodged out of misunderstanding, so she does not want to proceed with the case any further against A1.

13. Thus, it appears from the evidence of PW1, the prosecutrix that this witness has not uttered a single word implicating the accused person, in any way, for his involvement in the commission of the alleged offences. Rather, she has admitted that this case was lodged merely due to some misunderstanding.

14. On the other hand, PW2, father of the victim girl, in his evidence in chief, has deposed that he does not remember the

date and year of his lodging the ejahar in the police station and one day, his victim daughter was missing from their house and as he could not find out her, so he lodged the ejahar, which was written by someone else and he only put his signature thereon. His further deposition is that on next day, his daughter came back to his house and on being asked, she told him that she actually had gone to her friend's house. He has stated in his cross-examination that the FIR was lodged due to some misunderstanding.

15. PW3, wife of the informant has simply deposed that when the victim girl became disappeared from the house and they could not find out her, then, her husband lodged a case in the Police Station but, on next day, her victim daughter was recovered. She also deposed that on being asked, the victim told her that she was not kidnapped by anybody, rather she had gone to the house of her friend for purpose of traveling.

16. PW4, Smti Pinkumoni Das does not support the prosecution case at all.

17. Thus, from the discussions of the evidence on record, particularly the evidence of PW1 and PW2, it has become clear that the prosecution evidence is not sufficient to prove the ingredients of any of the offences u/s- 366 of IPC or Section-8 of POCSO Act against A1 that A1 had kidnapped the victim girl with intent to marry her or in order to have illicit intercourse with her; or A1 had committed sexual assault on the person of the prosecutrix.

18. In view of the above discussions and considering all

aspects, I find and hold that the prosecution has failed to prove its case u/s- 448 of IPC or Section-8 of POCSO Act against the accused person. Hence, I acquit the accused person from the said offences.

19. The accused person is set at liberty forthwith and his bail bond shall remain in force for another 6(six) months from today.

20. The case is disposed of accordingly.

21. Let a copy of this Judgment be sent to the Ld. District Magistrate, as per provision of Sec.365 of Cr.P.C.

Given under my hand and seal of this Court on this day of 9th March, 2022.

(Rashmita Das,AJS)
Special Judge (POCSO),
Lakhimpur, North Lakhimpur.

Dictated & Corrected by me:

(Rashmita Das,AJS)
Special Judge (POCSO),
Lakhimpur, North Lakhimpur.

Transcribed & typed by me:
Sri D. Chetia, (Steno)

List of Prosecution/ Defence/Court witnesses:

A. Prosecution:

Rank	name	Nature of evidence (eye witness, police witness, expert witness,

		medical witness, Panch witness, other witness)
PW1	prosecutrix	Eye witness
PW2	Sri Balubhadra Das	Informant (father)
PW3	Smti Sunu Das	Mother
PW4	Smti Pinkumoni Das	Other witness

B. Defence witness, if any:

Rank	name	Nature of evidence (eye witness, police witness, expert witness, medical witness, panch witness, other witness)

C. Court witness, if any:

Rank	name	Nature of evidence (eye witness, police witness, expert witness, medical witness, panch witness, other witness)

List of Prosecution/ Defence/Court Exhibits:

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Ext.-P-1/PW1	Statement of PW2 u/s 164 Cr.P.C.
2	Ext.-P-2/PW2	Ejahaar
3	Ext.-P-3/PW2	Seizure list.

B. Defence:

Sr. No.	Exhibit Number	Description

C. Court Exhibits:

Sr. No.	Exhibit Number	Description

D. Material Objects:

Sr. No.	Exhibit Number	Description

(Rashmita Das,AJS)
Special Judge (POCSO),
Lakhimpur, North Lakhimpur