
(2012) 01 GAU CK 0095
In the Gauhati High Court
Case No : Criminal Revision No.25 of 2004

Yusuf Ali

APPELLANT

Vs

Sahabuddin and Anr.

RESPONDENT

Date of Decision : 27-01-2012

Acts Referred:

Penal Code, 1860 — Section 366
Penal Code, 1860 (IPC) — Section 366

Citation : (2012) 4 GLR 354

Hon'ble Judges : P.K.Musahary, J

Bench : Single Bench

Advocate : Mr. HRA Choudhury, Mrs. A. Begum, Mr. I.A. Hazarika , Mr. F.U. Barbhuiyan for the petitioner.??Mr. K. Munir for the respondents., Advocates appearing for Parties

Judgement

1. Heard Mr. LA. Hazarika, learned counsel for the petitioner. Also heard Mr. K. Munir, learned Addl. P.P., appearing for the respondent No. 2 State of Assam.
2. This appeal was filed as far back as on 12.1.2004. Notice was issued vide order dated 19.12.2005 making it returnable within six weeks. Notice so issued was served upon respondent No. 1 as per Office Notice dated 23.12.2006. The matter was never listed for admission but it has been listed for hearing in the regular list. As the matter was not admitted, the records were not called for.
3. This revision has been filed under section 401 read with section 482 of the Cr.PC against the judgment and order dated 6.6.2003 passed by the learned Sessions Judge, Karimganj in Sessions Case No. 25/2003 acquitting the accused/ O.P. No. 1 under section 366, IPC framed against him.
4. The prosecution story in brief is that on 11.1.2003, when the first informant one Isuf Ali was absent from his house, his daughter namely, Piara Begum, aged 20 years, was missing at about 10.30 p.m. In spite of vigorous search, she could not be traced. However, the informant came to know that his daughter was

forcibly taken away by the accused persons named in the FIR including Sahab Uddin (present O.P. No.1). Police registered a case under section 366, IPC and filed charge sheet after completion of the investigation against the O.P. No. 1. The case was committed to the court of learned Sessions Judge for trial and disposal. Charge was framed against the O.P. No. 1 under section 366, IPC. He pleaded not guilty and claimed to stand trial.

5. The prosecution examined as many as 4 witnesses including the first informant and the victim girl. The defence examined no witness. The learned Sessions Judge, on consideration of the materials and the evidence on record, found the accused/O.P. No. 1 not guilty and acquitted him of the charge vide impugned judgment and order.

6. The informant, being aggrieved by and dissatisfied with the order of acquittal has filed the present petition for setting aside and quashing the impugned judgment whereby the learned Sessions Judge acquitted the accused/O.P. No. 1. On perusal of the impugned judgment and order, I find that the learned Session Judge appreciated the evidence of prosecution witnesses, particularly the evidence of the victim girl PW1. There is no dispute regarding the age of the victim girl. She was 20 years at the time of alleged occurrence and as per the finding of the learned trial court the family of the accused as well as the victim are living within the same courtyard and they know each other. As per the finding of the learned trial court, the victim girl was kept in the house of the accused for 3/4 days and both the accused and the victim girl have been living together in a room. Being a major girl, if she was really kept confined forcefully by the accused, she could have raised alarm at an opportune moment or she could have somehow informed any of her family members or persons living in and around the place where she was allegedly kept confined. The finding of the learned trial court is that the victim girl even accompanied the accused to a photo studio for taking joint photograph with the accused. The said photographs, as it appears from the records, were proved and exhibited as Exhibits A and B. Going outside from the house of the accused along with him to a photo studio and taking photographs with him speaks volumes. What I mean to say is that while she was proceeding to photo studio she had opportunity to raise alarm or inform some people about her alleged forcible confinement or kidnapping. The conduct of the victim girl clearly demonstrates her willingness to accompany the accused and to live with him. This is enough for taking a view or drawing a conclusion that the victim was not forcibly kidnapped or confined by the accused. I do not find any ground for taking a different view other than the view taken by the learned trial court. There is no valid ground for interference with the impugned judgment and order. The impugned order of acquittal is upheld. This revision petition stands dismissed.

7. Send down the LCRs forthwith.