

IN THE COURT OF ASSTT. SESSIONS JUDGE :::::::::: BONGAIGAON.

**Sessions Case No. 42(J)/2011.**

State

Vs.

Fazar Ali and Sahidul Islam---

Accused

U/s 376/109 IPC.

**Present:- Sri S. Das.**  
**Asstt. Sessions Judge,**  
**Bongaigaon.**

*Appearance:- Mrs. C. Choudhury, Additional  
P.P. for the State.*

*Mr. Mohammad Ali Advocate  
for the accused.*

Date of Evidence : 02.02.12,23.4.12  
16.5.12,18.8.12,  
06.9.12,1.2.13  
22.4.2013.

Date of argument : 15.6.2013.

Date of judgment : 24.06.2013

**J U D G M E N T A N D O R D E R**

Brief facts --

1. The prosecution case goes as under :

On 11.5.2007 the complainant Md Ainuddin of Barjana part III under Jogighopa police station lodged an written complaint before SDJM, North Salmara, Abhayapuri alleging interalia that on 1.5.2007 his daughter Miss Khalida Khatun aged about 16 years had gone to work as labourer for construction of road at Madhukol village. In the afternoon while his daughter was returning home at about 6.15 P.M the accused

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(2)

Sahidul Islam and Fazar Ali met her on the road and dragged her to a paddy field and accused Sahidul forcefully committed rape on his daughter. The learned SDJM forwarded the complaint to O.C Jogighopa police station to register a case and to investigate and submit FF. Accordingly, Jogighopa police station registered a case being no. 74/2007 U/S 376/34 IPC. Police started investigation and on completion of investigation police submitted charge sheet against the accused persons U/s 376/34 IPC. The case came up before the learned Judicial Magistrate and learned Judicial Magistrate on appearance furnished copy to the accused persons and committed the case to the Hon'ble Sessions Judge, Bongaigaon. Thereafter, the Hon'ble Sessions Judge, Bongaigaon transferred the case to this case court for trial. On appearance of the accused and on consideration of the materials on record and after hearing both sides charge U/S 376 IPC was framed against the accused Sahidul Islam and charge U/S 109 IPC was framed against the accused Fazar Ali which were read over and explained to the accused persons to which they pleaded not guilty.

2. Prosecution in order to prove its case examined 10 witnesses in all. Defence case was of total denial and adduced no evidence whatsoever.

3. *Points for determination -*

*I) Whether on 1.5.2007 at about 6.15 P.M you abetted Sahidul Islam in commission the offence of rape on Mustt Khalida Khatoon which offence was committed in consequence of your abatement and thereby committed an offence punishable U/S 109 IPC ?*

*II) Whether on 1.5.2007 at about 6.15 P.M you committed rape on Khalida Khatun daughter of informant Md Ainuddin and thereby committed an offence U/S 376 IPC ?*

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