

Sessions Case No. 144(BGN)/2011.

U/S 376 IPC

State

Vs.

Babul Barman ..... Accused.

**PRESENT : Smt. M. Nandi,  
Sessions Judge,  
Bongaigaon.**

*ADVOCATES APPEARED : Sri A. K. Nath, Public Prosecutor  
for the State.*

*Sri K. Das,  
Sri N.I. Siddique, Advocates  
for the accused.*

Date of Argument : 12.04.2013.

Date of Judgment : 12.04.2013.

*12/4*  
**SESSIONS JUDGE  
BONGAIGAON**

**JUDGMENT AND ORDER**

1. The informant Smt. Tilottoma Ray lodged an ejahar before the I/C, North Bongaigaon O.P. Stating inter alia that by giving assurance to marry, the accused Babul Barman used to have sexual intercourse with her for last one year. Though she several times asked him to get her married, but he assured to marry her after some days. On 03.09.2011 at about 6 PM, the accused came to her house and called her outside the house and committed rape on her against her will. Having seen the incident by neighbouring people, they confined the accused and she was taken to her house, hold a village meeting to settle the said matter in dispute, but the meeting was not held. On the next day, the members of the VDP of their village were allowed to escape the accused from the village.

2. On receipt of the ejahar, a case was registered and after completion of investigation submitted charge sheet against the accused U/S 376 IPC. During trial the accused put his appearance before the court. He was enlarged on bail. Charge was framed U/S 376 IPC which was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

3. In this case, prosecution examined eight witnesses and the defence examined none. The plea of the defence is the plea of denial.

4. Point for determination

1. Whether the accused person since one year prior and including 3rd day of September, 2009 at Garugaon under Bongaigaon Police Station committed rape on Tilottoma Ray and thereby committed an offence U/S 376 IPC ?

DECISION AND REASONS THEREOF

5. To arrive at just decision of the case, let me consider the evidence of the witnesses.

6. PW 1 is the victim Tilottoma Ray. She deposed in her evidence that the accused used to visit her house as her friend. But the people of their village complained that why the accused visited her house frequently. On that count, she lodged the ejahar. She could not say what was written in the ejahar. She did not read over the same. She was asked to put her signature on the ejahar and accordingly, she put her signature.

In her cross-examination, PW 1 replied that the ejahar was written by some people but she could not say who wrote the ejahar. She also could not say what was written in the ejahar. The accused never committed sexual intercourse with her. He is a married person. As per direction of the people of their village, she lodged the ejahar.

7. PW 2 is Shaniram Ray, who is the father of the victim. He deposed in his evidence that about one year back, his daughter lodged the ejahar. As his daughter was assaulted without any reason, the people asked her to lodge the ejahar and accordingly she did so.

In his cross-examination, PW 2 replied that his daughter never complained against the accused.

8. Sri Thaneswar Ray is examined as PW 4. He deposed in his evidence that the occurrence took place about 1 year back. Accused Babul Barman is working as painter. He used to visit the house of Tilottoma. On the date of occurrence at about 7 PM, the accused came to the house of Tilottoma and committed some misdeeds. Having seen the same, people of their village confined

