

IN THE COURT OF THE PRINCIPAL MAGISTRATE

.....: JUVENILE JUSTICE BOARD: BONGAIGAON :.....

GR Case No.107/2012.

U/S.341/354 IPC.

State of Assam

-Vrs-

Md. Nurad Zamal @

Ali.

Present: Sri A.U. Ahmed, AJS
Chief Judicial Magistrate,
Bongaigaon.

Name of the informant:

Md. Mokjal Ali
S/o Lt Abdul Hussain,
Vill-Satipur Colonypara,
PS-Dhaligaon, Dist: Chirang.

Advocates appeared:

For the Prosecution: *Mr. T. Bhowmick, Assistant PP.*

For the Defence: *Mr. P. K. Das*

Argument heard on: **25.04.2013.**

Judgment pronounced & delivered on: **30.04.2013.**

J U D G M E N T

1. The prosecution case in brief is that on 18-02-2012 the informant lodged a written ejahar with Dhaligaon PS stating inter-alia that on 17-02-2012 at 9 AM the juvenile taking advantage absence of none entered into their house and felled his blind daughter on the ground by gagging her mouth with cloth and tried to make sexual intercourse with her. At that while her wife entered into

the house, the juvenile managed to flee away. On receipt of the written

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ejahar, Dhaligaon PS registered a criminal case under sections 341/376/511 IPC and started investigation. On completion of investigation the charge sheet was submitted under sections 341/354 IPC against the juvenile. Hence the prosecution has come up.

2. On completion of the appearance of the juvenile, copy was furnished to him. The particulars of the offence under sections 341/354 IPC is duly explained to the juvenile to which he pleaded not guilty and claimed to be tried.

3. During trial, the prosecution has examined only 5(five) prosecution witnesses. The juvenile has been examined under section 313 CrPC. Defence has examined none. The plea of defence is of total denial.

4. : **POINT FOR DETERMINATION** :

(a) Whether the juvenile committed the offence U/Ss.341/354 IPC?

5. : **DECISION AND REASONS THEREOF** :

We have very carefully gone the argument duly advanced by the Ld. Lawyers of both sides as well as evidence on record. In the very beginning the Ld. Defence lawyer has contended that the prosecution has failed to prove its case against the juvenile

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beyond all reasonable doubts. On the other hand refuting the aforesaid submissions the Ld Assistant PP has submitted that the prosecution has succeeded in establishing its case beyond all reasonable doubts against the juvenile. Prior to rebutting rival contentions of the parties, it would be appropriate to analyze the evidence on record. Now we would like to move on to the evidence on record.

6. PW1 is the informant who is the adopted father of the victim. He had not seen the occurrence. PW2 is Musstt. Rahima Khattun who is the adopted mother of the victim. She is most vital witness as her evidence shows that she found the juvenile in the spot. She has stated in her testimony that entering into the house she found the victim lying on the ground and the juvenile on her by gagging her. There after closing the door she started shouting. There after somehow the juvenile made way and fled away. She also chased the juvenile up to his house. At that time his parents were not

in the house. She informed the matter to the wife of Billal. PW3 is Musstt. Behula Khattun who has been declared hostile.

7. PW4 is Sakina Khattun who is the victim of this case. She has stated in her testimony that the occurrence took place about one year back at 9:00 AM. At that time while she was alone in his house, the juvenile entered into their house and uttering foul

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words gagged her with cloth and removed her wearing pajama. During that time her mother entered into house and raised shouting. The accused person fled away by felling her mother on the ground with a dash. PW5 is the Lalita Ray. According to her the occurrence took place about one year back at 9:00 AM. At that time from his house after hearing shouting coming from house of the informant she rushed to the PO and heard from the people that the juvenile made attempt to make sexual intercourse with the victim by gagging her mouth with cloth.

8. In this case, PW2 & PW4 are most vital witnesses. From the evidence of PW2 it appears that she found the juvenile on the victim while she was kept lying on the ground in their house. Upon perusal of the case diary it appears that the PW3 stated before the IO that while she was washing cloth, she came out

from the house hearing the shouting of PW2 (mother of the victim girl) came out and found PW2 holding the juvenile and thereafter the juvenile fled away and that she heard that the juvenile was doing sexual harassment on the victim by felling her on the ground. It is evident that the victim girl is a blind. Considering the cross-examination of victim girl I feel hesitation to discard her evidence that finding her alone in the house the juvenile entered there into and removed her pajama. I also find that the defence has totally failed to make the evidence of PW2 shaky

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and unreliable. It is evident that the house of the PW5 is attached to the house of the informant and that she came to the PO after 15 minutes of the occurrence. Her evidence clearly shows that she heard the shouting of PW2. Ext1 is the ejahar which also has supported the evidence of PW2 & 4. PW1 is the informant who has stated in his testimony that hearing about the occurrence he came to the house and found a gathering of the people in his house and the victim girl is crying. He has also stated that her wife informed him that entering into the house she saw the juvenile and the victim girl putting on the wearing clothes which were put off.

- 9.** In the result we find the juvenile is guilty U/Ss.341/354 IPC.

10. On the point of passing of an order U/S.15 of the Juvenile Justice (Care & Protection of Child) Act, 2000 the juvenile is heard. It is evident that at present juvenile is 17 years old and studying. There is no evidence on record showing that the juvenile is an earning fellow. There is nothing on record regarding financial condition of the parents of the juvenile. **Hence, the father of the juvenile Md. Juran Ali is hereby sentenced with the fine of Rs.500/-(Rupees Five Hundred) for the section 341 of the IPC i/d civil imprisonment for 15 days and Rs.4500/- for the section 354 IPC i/d civil imprisonment for 1½ months. Let the aforesaid fine be**

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paid to the victim girl through the informant as compensation. Considering nature of the case, we are of the opinion that this is not a fit case for referring the same to the District Legal Services Authority, Bongaigaon for granting compensation U/S.357-A of the CrPC. Let the Copy of the Judgment be furnished to the victim at free of cost. Let the Judgment be up-loaded in the official web-site. Accordingly, this case is disposed of on contest.

11. The Judgment is pronounced and delivered in the open court on this 30th April, 2013 under my hand and seal of this Court.

(Sri A. U. Ahmed)
Principal Magistrate,
Juvenile Justice Board
Bongaigaon.

Dictated & corrected by me.....

(Sri A. U. Ahmed)
Principal Magistrate,
Juvenile Justice Board
Bongaigaon.

(Sri Dulal Ch. Basak)
Member,
Juvenile Justice Board
Bongaigaon.

(Smt. Ranu Choudhury)
Member,
Juvenile Justice Board
Bongaigaon.
