

BEFORE THE JUVENILE JUSTICE BOARD, BONGAIGAON

Present: Mrs. S. Handique, AJS

Principal Magistrate, JJB, Bongaigaon

Mr. D. C. Basak,

Member, JJB, Bongaigaon

Mrs. R. Choudhury,

Member, JJB, Bongaigaon.

JJB Case no. 06/13

(u/s 376/313 IPC)

State

V.

Nowshad Ali

Evidence recorded on: 9-10-14

Arguments heard on: 9-10-14

Judgment delivered on: 9-10-14

For prosecution: Mr. T.K. Bhowmik

For defence: Mr. L. A. Ahmed

JUDGMENT

1. The prosecution story of this case before the JJB is that informant Msstt. Anowara Khatun lodged an FIR on 14-1-12 against Nowshad Ali, Rafiqul Islam, Nekjan Bewa and Abul Hasen alleging that Nowshad Ali has been indulging in sexual intercourse with his her for the last 1 ½ years by making false promises. She further alleges that she got pregnant as a result of regular sexual intercourse, however, the FIR named accused persons tried to cause miscarriage on 8-1-12 by administering her a tablet forcefully. As a result she suffered miscarriage on 12-1-12. She also alleged that on 13-1-12 Nowshal Ali took her to his room and again indulged in sexual intercourse with her forcefully on the promise of marriage and thereafter he fled. She further alleges that the other accused persons abused her in filthy language

and drove her out of their house. According to her the accused had proposed to compromise the matter, hence the FIR was lodged belatedly.

2. The FIR was registered as Abhyapuri P.S. Case no. 12/12 u/s 376 /313 IPC and after investigation the police filed the charge sheet against juvenile Nowshad Ali and the charge sheet was forwarded to this Board. The Juvenile was produced before the Board and he was released on bail. The necessary copies were served upon the juvenile in conflict with law (herein after referred to as JCWL) Nowshad Ali. The particulars of offence u/s 376/313 IPC were explained to him to which he pleaded not guilty and claimed trial.
3. During enquiry three witnesses were examined by the prosecution including the victim/ complainant. As the victim and the other two witnesses did not implicate the juvenile prosecution evidence was closed as there was no scope for improvement in this case. Accordingly, statement of the juvenile u/s 313 Cr. P.C was dispensed with. No defence evidence has been adduced. Heard arguments from both the sides.
4. The following points for determination have been framed in this case:

POINTS FOR DETERMINATION:

1. *Whether JCWL Nowshad Ali committed rape upon Anowara Khatun as alleged and thereby he committed an offence punishable u/s 376 IPC:*
2. *Whether JCWL Nowshad Ali caused the informant to miscarry by administering her some drug on 8-1-12 and thereby committed an offence punishable u/s 313 IPC?*

DISCUSSIONS, DECISIONS AND REASONS THEREOF:

DECISION ON POINT NO. 1,2,3:

5. Both the points are taken up together for convenience of discussion. The allegation against JCWL Ashad Ali is that he developed physical intimacy the informant on the promise of marriage and caused her miscarriage. In this respect let us examine the evidence on record.
6. ***PW1 Anowara Khatun*** is the victim in this case. She deposed that she was in love with the juvenile and as such they indulged in sexual inter course. She stated that the case was filed as he had refused to marry her. She however testified that the case has been settled and their marriage was solemnised three years back. She exhibited the FIR as Ext. 1.
7. ***PW2 Mir Hussain*** and ***PW3 Abdul Rezzak*** deposed in the same line.
8. Thus it is seen that the prosecution itself has failed to bring home the allegations against the juvenile. In view of the above discussions this Board has come to the conclusion that the allegations brought against the juvenile are not proved. He is held not guilty u/s 376/313 IPC and he is acquitted.

The juvenile is set at liberty forthwith. His bailbond stands discharged. Judgment is pronounced in the open in presence of the juvenile. Given under the hand and seal of this Juvenile Justice Board, Bongaigaon on 9-10-14.

Smt. S. Handique, AJS
Principal Magistrate, JJB, Bongaigaon

Sri. D.C. Basak,
Member, JJB, Bongaigaon

Smt. R. Choudhury,
Member, JJB, Bongaigaon