

**IN THE COURT OF ASSTT. SESSIONS JUDGE, BAKSA****Present: H.T Buragohain, Asstt. Sessions Judge, Baksa**12<sup>th</sup> day of May 2022

(Sessions Case No.92/21)

(Simla P.S case no.80/19)

Complainant:

STATE OF ASSAM

Represented by

Mr. Dipmoni Boro, Ld. Addl P.P

Accused

Sri Pranab Hazarika

REPRESENTED BY

Md. Matiur Rahman

Date of Offence	24-10-2019
Date of FIR	27-10-2019
Date of Charge-sheet	29-02-2020
Date of Framing Charges	01-04-2022
Date of commencement of evidence	12-05-2022
Date of which Judgment is reserved	12-05-2022
Date of Judgment	12-05-2022
Date of Sentencing Order, if any	-Nil-

### Accused Details:

<b>R a n k o f t h e a c c u s e d</b>	<b>Name of accused</b>	<b>Date of arrest</b>	<b>Date release on bail</b>	<b>Offences charged with</b>	<b>Whether acquitted or convicted</b>	<b>Sentence imposed</b>	<b>Period of detention undergone during trial for purpose of sec. 428 Cr.P.C.</b>
1	Sri Pranab Hazarika	-	-	u/s 366 IPC	Acquitted	-Nil-	

**J U D G M E N T**

1. The gist of the prosecution case in brief is that on 27-10-2019 one Madhab Nath lodged an ejahar before the I/C of Jalah O.P alleging interalia that on 24-10-2019 at about 11.00 p.m the accused Pranab Hazarika kidnapped his daughter Barsha Nath. Hence this case.

2. On receipt of the ejahar police registered a case as Simla PS Case No.80/19 u/s 366(A) IPC and started investigation. After completion of investigation the I/O submitted charge sheet against accused Sri Pranab Hazarika u/s 366(A) IPC. Since the offence u/s 366(A) IPC is exclusively triable by the Court of Sessions, the Ld. Addl. CJM, Baksa committed this case to the court of Hon'ble Sessions Judge, Baksa. On receipt of the committal paper and PRC Case Record, Hon'ble Sessions Judge, Baksa transferred this case to this court for disposal.

3. After hearing the learned counsels of both sides and on perusal of the case diary, charge was framed against the accused u/s 366 IPC. The charge so framed was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

4. During trial, prosecution side examined as many as 2(two) witnesses to prove the charge

against the accused. Accused was examined u/s 313 CrPC. The statement of defence is recorded in a separate sheet. The defence plea was of complete denial and the defence side has not adduced any evidence.

5. **POINT FOR DETERMINATION**

i) Whether the accused on 24-10-2019 at about 11.00 p.m at Ghogapar under Simla police station, (kidnapped or abducted) the victim (name withheld) with intent that she may be seduced or forced to illicit intercourse and thereby committed an offence punishable under section 366 IPC?

**DISCUSSION DECISION AND REASONS THEREOF**

6. I have heard learned counsel for both the parties and have gone through the evidence on record. Learned counsel for the prosecution has submitted that all the witnesses have supported the prosecution story and this is a fit case to convict the accused u/s 366 IPC.

7. On the other hand, learned defence counsel has submitted that prosecution has failed to prove the case. There are discrepancies in the evidence adduced before the court and the statements of the witnesses recorded u/s 161 CrPC. Learned defence counsel has further submitted that the witnesses has nullified the prosecution case and

from the evidence of PWs no ingredients of offence is made out against the accused.

8. It is at this stage expedient to cast a glance at the evidences of the prosecution witnesses.

9. In the very beginning of our discussion, let us go through the evidence of PW2, Madhab Nath, who is the informant of this case. PW2 stated that about one year back his daughter eloped with the accused. According to PW2 they searched for his daughter but could not find her. Thereafter he lodged an ejahar. Later on, the victim returned back to their house but again after few months she eloped with the accused. It is revealed that the victim was given in marriage to the accused by PW1 after that.

10. Coming to the evidence of PW1, Barsha Nath, who is the victim of this case, we find her stating that about 2 years back she eloped with the accused to Guwahati as she was in love with him. According to PW1 as her family members could not find her, her father lodged an ejahar against the accused. After knowing about this both she and the accused appeared in the police station. It is further revealed from the evidence of PW1 that at present she is residing with the accused as his wife and a child is born from the wedlock.

11. From the evidence of the PWs it is clear that the accused did not kidnap the victim whereas she herself eloped with him. Hence considering the evidence and materials available on record it can be inferred that the accused person is innocent as the victim and the informant stated that they have no objection if the accused is acquitted from this case. Even in her statement recorded u/s 164 CrPC which is marked as Exhibit.P1/PW1 the victim stated about their love affair. There being no other proper supporting evidence as discussed above, the prosecution story cannot be relied upon as the same suffers from so many infirmities.

12. Therefore it is found and hold that the daughter of the informant eloped with the accused on her own accord. In view of the above discussion it is clear that the prosecution has not been able to prove the charge against accused Sri Pranab Hazarika. Hence it appears that the ingredients of section 366 IPC is not attracted against the accused person.

### **O R D E R**

13. From the discussion made above, I find that the prosecution has miserably failed to prove the offence u/s 366 IPC against the accused.

Hence, accused Sri Pranab Hazarika is found not guilty and is acquitted from the charge of offence u/s 366 IPC.

The accused person is set free at his liberty forthwith.

Bail bond furnished by the accused persons shall stand cancelled after a period of 6 months.

Given under my hand and seal of this court on this the 12<sup>th</sup> day of May 2022

Asstt. Sessions Judge,  
Baksa, Mushalpur

Dictated & corrected by me

Asstt. Sessions Judge,  
Baksa, Mushalpur

**LIST OF PROSECUTION/ DEFENCE/ COURT  
WITNESSES**

**A. Prosecution:**

RANK	NAME	NATURE OF EVIDENCE
PW1	Smti. Barsha Nath	
PW2	Sri Madhab Nath	

**B. Defence Witnesses, if any:**

RANK	NAME	NATURE OF EVIDENCE
DW1		
DW2		

**C. Court Witnesses, if any:**

RANK	NAME	NATURE OF EVIDENCE
CW1		
CW2		
CW3		



## LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS

### A. Prosecution:

Sr. No	Exhibit Number	Description
1	Exhibit-P1/PW1	Statement of the victim recorded u/s 164 CrPC
2	Exhibit-P1(1)/PW1 & Exhibit-P1(2)/PW1	Signatures of PW1
3	Exhibit-P2/PW2	Ejahaar
4	Exhibit-P2(1)/PW2	Signature of PW2

### B. Defence:

Sr. No	Exhibit Number	Description
1	Exhibit D-1/DW1	
2	Exhibit D-2/DW2	
3	Exhibit D-3/DW3	

### C. Court Exhibits:

Sr. No	Exhibit Number	Description
1	Exhibit C-1/CW1	
2	Exhibit C-2/CW2	

### D. Materials Objects:

Sr. No	Exhibit Number	Description
1	MO1	
2	MO2	