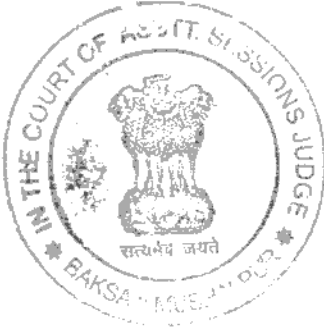


IN THE COURT OF ASSTT. SESSIONS JUDGE :::BAKSA

**Present** : Smti. Himakshi Thakuria Buragohain.  
Asstt. Sessions Judge,  
Baksa, Mushalpur

**SESSIONS CASE NO.: 323/18**



U/S 366/342 IPC

STATE OF ASSAM

- VS -

Sri Ananda Namu Das

..... Accused person.

Committed by Ld. CJM, Baksa, vide order dated 17-09-2018 in connection with PRC Case No. : 53/18

**APPEARANCE** :

Advocate for the prosecution : Mr. Dipmoni Boro,  
Learned Addl. PP.

Advocate for the defence : Mr. Swamdan Deury

Date of Evidence : 09-07-2019

Date of Argument : 10-01-2022

Date of Judgment : 11-01-2022

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11-01-2022  
Asstt. Sessions Judge  
Baksa

## J U D G M E N T

1. The gist of the prosecution case in brief is that on 24-07-2018 one Smti. Sunati Biswas lodged an ejahar at Tamulpur PS alleging, inter alia that on 20-07-2018 her daughter Sabitri Biswas was kidnapped by the accused Ananda Namu Das and was wrongfully confined in an unknown place. Hence, this case.

2. On receipt of the ejahar police registered a case as Tamulpur PS Case No.280/18, u/s 366/342 IPC and started investigation. After completion of investigation the I/O submitted charge sheet against the accused person u/s 366/342 IPC. Since the offence u/s 366 IPC is exclusively triable by the Court of Sessions, the Learned Chief Judicial Magistrate, Baksa, committed this case to the court of Hon'ble Sessions Judge, Baksa. On receipt of the committal paper and GR Case Record Hon'ble Sessions Judge, Baksa, started Sessions case against the accused person and thereafter 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 person u/s 366/342 IPC. The charges so framed were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.



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Asstt. Sessions Judge  
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4. During trial, prosecution side examined 2 (two) witnesses including the informant to prove the charges against the accused person. Accused person was examined u/s 313 CrPC. The statement of defence is recorded in separate sheet. The defence plea was of complete denial and the defence side has not adduced any defence evidence.

5. **POINTS FOR DETERMINATION**

a) Whether you, on or about 20/07/2018 in the morning at Hastinapur under Tamulpur police station, kidnapped Ms. Sabitri Biswas with the intent that she may be compelled to marry against her will and thereby committed an offence punishable u/s 366 IPC?

b) Whether you on same day and place as above, wrongfully confined Ms. Sabitri Biswas and thereby committed an offence punishable u/s 342 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 366/342 IPC.



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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 victim 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. For determining the actual fact let us go through the evidence of P.W-1, Smti. Sunati Biswas who is the informant of this case. P.W1 stated that about one year back, the accused took away the victim girl.

10. Though PW1 has alleged in her evidence that the accused took away the victim, we find her stating in her cross-examination that at the time of occurrence the victim was not residing with her. PW1 also stated in her cross examination that the house of the accused is at a distance of two kilometer from her house. When the victim did not reside with the informant and when the house of the accused also far from the house of the informant, how could she know that it was the accused who took away the victim.



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11-01-2022  
Asstt. Sessions Judge  
Baksa

11. Coming to the evidence of P.W2, Smti. Sabitri Biswas, who is the victim of this case we find her stating that about one year back one day she eloped with the accused. Thereafter police recovered her from the house of the accused and she was sent for medical examination and recording her statement in the court.

12. As revealed from the evidence of the P.W2 there is no doubt that the accused and the victim had love affair and that on the day of occurrence the victim willfully went out with the accused. It is also clear that without knowing the actual fact the informant lodged the ejahar.

13. Considering the evidence and materials available on record it is very clear that the ingredients required to constitute an offence u/s 366/342 IPC are not fulfilled against the accused at all. 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.

14. In view of the above discussion it is held that the prosecution has not been able to prove the charge against the accused Ananda Namu Das. Hence, it appears that the ingredients of section 366/342 IPC are not attracted against the accused.



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11.01.2022  
Asst. Sessions Judge  
Baksa

**O R D E R**

15. From the discussion made above, I find that the prosecution has miserably failed to prove the offence u/s 366/342 IPC against the accused person.

Hence, accused person Ananda Namu Das found not guilty and is acquitted from the charge of offences u/s 366/342 IPC.

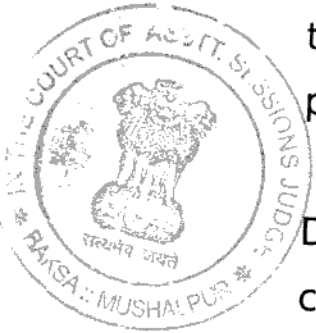
Bail bond furnished by the accused person shall stand canceled after period of 6 months.

Given under my hand and seal of this court on this the 11<sup>th</sup> day of January 2022 at Baksa.

*h* 11.01.2022  
Asstt. Sessions Judge,  
Baksa, Mushalpur

Dictated & corrected by me

*h* 11.01.2022  
Asstt. Sessions Judge,  
Baksa, Mushal



**A P P E N D I X****(A) Prosecution witnesses:**

PW 1 : Smti. Sunati Biswas (Informant),  
PW 2 : Smti. Sabitri Biswas (victim)

**(B) Prosecution exhibited documents : Nil.****(C) Defence witnesses : Nil.****(D) Defence exhibited document : Nil.**

*h*  
14.01.2022  
Asstt. Sessions Judge  
Baksa, Mushalpur

