

Sessions Case No. 90/21

29.06.2022;

Accused Joyanal Abedin is present and files hajira through Ld. Engaged Advocate Smt. D. Narzary.

Prosecution has recorded the evidence of prosecutrix who has been examined as PW1.

Ld. PP Mr. R. Chetry having perused the evidence of PW1 has submitted that prosecution will not further evidence.

After going through the evidence of PW1 who is the prosecutrix of this case and also submission of Ld. PP, I close further evidence of the prosecution side.

The case of the prosecution unfolded in the ejehar (FIR) lodged by prosecutrix Smt. X (PW1) w/o- Mr. Y, village- Aikhari Bilpothar under Gobardhana P.S is that on the midnight of 07.08.2020, accused Joyanal Abedin who is her neighbour taking advantage of the absence of her husband, committed house trespass by breaking the door of her house and committed rape on her at dagger's point. After committing the crime, the accused threatened her with dire consequence of her life if she discloses the occurrence to others and he had gone away. Hence, this case. During the course of investigation, police recorded the statement of the witnesses including the victim Smt. X. She was also medically examined and her statement u/s 164 Cr.PC was also recorded.

On completion of investigation, police submitted charge sheet against the accused u/s 457/376 IPC.

After appearance of the accused, this court upon hearing both sides and considering the materials on case diary, framed charges u/s 457/376(1) IPC. The charges so framed, were read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

Today as it has been already mentioned, the evidence of prosecutrix (Smt.X) (PW1) is recorded. She has also been cross examined.

PW1 has clearly stated that the accused and her husband are very close to each other as they work together for earning livelihood. The accused has a good visiting terms with her family. He most often, visits them even during night time too. On the relevant night of alleged occurrence, the accused at around 10 pm in absence of her husband, came to her house. As such, the neighbours suspected that they she might have illicit relation with the accused. She has clearly stated that under the pressure of her neighbours and villagers, she lodged the false case with false allegations against the accused. She has proved that Exbt.1 is the ejehar and Exbt.2 is her medical examination report. She has also confirmed that Exbt.3 is her statement recorded by the Magistrate u/s 164 Cr.PC. She has categorically stated that she made the false statement vide Exbt.3 before the Magistrate due to pressure of her villagers.

In her cross-examination, PW1 has clearly stated that the accused did not do any bad work with her.

Thus, from a careful reading of the evidence of PW1, who is the star witness of the prosecution, it is abundantly clear that she herself does not support the allegations made in Exbt.1 ejehar lodged by her. She has also made it clear that her statement vide Exbt.3 was falsely made under the pressure of the villagers.

When the prosecutrix does not supports her own case based on the allegation of committing rape against the accused, no any kind of further evidence would be able to retrieve the allegation in the FIR. So, the accused is found not guilty of the offence u/s 457/376(1) IPC.

Accordingly, the accused is acquitted.

The bail bond shall remain in force for another six months in the spirit of Section 437-A Cr.PC.

This order is passed in exercise of power u/s 232 Cr.PC.

The case stands disposed of.

Sessions Judge,
Baksa, Mushalpur