

ASSN060004742022



IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, BISWANATH

Present : Smt. Munmee Neog

Date of judgment: 10.08.2026

Case No. P.R.C 355/2022

Under Section 363/34 of I.P.C

Biswanath Chariali Police Station Case No. 190/2017

Registered Under Sections 363/34 of IPC

COMPLAINANT:

STATE OF ASSAM

REPRESENTED BY

Smt. S. Borah, Learned Addl. Public
Prosecutor

ACCUSED

1. Sri Ankel Khodal (A1)

Son of Late Noren Khodal

Resident of: village: Dofolakota

P.S: Biswanath Chariali

District: Biswanath

REPRESENTED BY

Mr. S. Bordoloi, learned Deputy LADC

Date of Offence

Around five months back
from date of lodging FIR

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Date of F.I.R	17.07.2017
Date of charge sheet	30.11.2019
Date of framing of charge	04.11.2024
Date of commencement of evidence	16.11.2024
Date on which judgment is reserved	Nil
Date of Judgment	10.08.2026
Date of the sentencing order, if any	Does not arise

Accused details:

Rank of the Accused	Name of accused	Date of arrest	Date of release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during Trial for purpose of Sec. 428 Cr.P.C.
A1	Sri Ankel Khodal	19.07.17 During trial again arrested on 19.10.24	29.7.2017 06.01.2025	Section 363 of I.P.C	Acquitted from the charge	Does not arise	Does not arise

J U D G M E N T

Prosecution Case:

1. Around five years back from date of lodging FIR, Sri Bikash Kalandi, son of PW1 and 25-26 other boys went missing from Pavoi Dofolakota line. During enquiry it was learnt that A1 along with Deepa Khodal, Bikram Khodal and Sorben Khodal had involvement in the said incident.

Proceeding:

2. With regard to aforesaid allegations PW1 lodged an F.I.R, which was registered and was investigated by police. Investigating Officer laid charge-sheet against A1 and Deepa @ Dipak Khodal (hereinafter both together be referred as 'accused persons') only under Section 363/34 of I.P.C. Accused, Deepa @ Deepak Khodal was shown as 'absconder' in the charge-sheet.
3. Attendance of A1 could be procured before court upon his arrest on the strength of NBWA, whereas, co-accused was granted bail when he appeared in response to summons. Copy under Section 207 of Cr.P.C was furnished to both of them. Charges under Sections 363/34 of I.P.C was framed against both accused and particulars of same were read over and explained to both of them. Both accused pleaded not guilty and claimed trial.
4. Before commencement of trial accused, Deepa @ Deepak Khodal, again defaulted in his appearance and vide order



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dated 21.01.2026 based on report of W/A and P&A, case against him was filed till his appearance/arrest or surrender.

5. The prosecution has failed to examine any witness except informant inspite of getting sufficient time and opportunities for the same. The alleged victims of the case, out of whom name of one is only mentioned in FIR was summoned as court witness, but, his attendance could not be procured. Whereas, prosecution even has failed to bring into record name of any of the persons, who in FIR are termed as victims by referring them as '15/26 other boys' only. Prosecution also has failed to examine remaining listed witnesses as inspite of issuing processes to them on numbers of occasions none of them could be reportedly found on the addresses given. Based on aforesaid position, recording of evidence of Investigating officers was dispensed with considering that to be not necessary.
6. Finding no incriminating material against A1, recording of his statement under Section 313 of Cr.P.C is dispensed with.
7. I have heard argument advanced by learned Addl. Public Prosecutor as well as the learned counsel for A1.

Point for determination:

8. Whether around five months back from 17/07/2017, at, Pavo Dofolakota line under, Fakiragram Police Station, A1



kidnapped Bikash Kalandi, son of PW1 and 15-16 other boys from their lawful guardianship, in this case from their parents, which included PW1, and thereby committed offence punishable under Section 363 of I.P.C?

Evidence:

9. PW1 has deposed that on date of incident his son, Bikash Kalandi along with few others went to Arunachal Pradesh with accused persons and having unable to find his son and others he lodged Exhibit P-1/PW1. He also has deposed that subsequently his son and others came back from Arunachal Pradesh. He has stated in his cross examination that he does not know if his son as per his own wish went to Arunachal Pradesh with accused persons and if even A1 with his son and others went to Arunachal Pradesh for work purpose only.

Discussion, decision and reasons thereof:

10. In order to establish the culpability of A1 prosecution was given sufficient time and opportunities to examine it's witnesses. Record shows that there were only five numbers of listed prosecution witnesses apart from the Investigating officers, but, inspite of issuing processes to them on number of occasions prosecution has failed to procure their attendance except of informant. As appears from record, prosecution even has failed to examine the alleged victims referred in FIR inspite of giving sufficient time and opportunities for the same, whereas, FIR named alleged victim though was having knowledge regarding date fixed

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for his evidence he failed to appear in response to court notice (he was not listed by prosecution as a witness to this case). Similarly, even after issuing processes to other listed witnesses prosecution has failed to examine said witnesses for the reasons mentioned in paragraph 5 of this judgment. Prosecution even has failed to bring into record who were the other 15-16 boys referred in FIR as victims of the offence alleged. The only witness examined by prosecution has failed to state about any involvement of A1 in the incident alleged in FIR.

11. Thus, it appears that prosecution has failed to prove the accusations levelled against A1 in the F.I.R by bringing any cogent evidence on record. No such evidence is brought into record, which could substantiate the allegations raised against A1.
12. Foregoing discussion, thus, shows that prosecution has failed to prove the allegations raised in the F.I.R. In the result, I find and hold that the prosecution side has failed to prove charge under Section 363/34 of I.P.C. by A1. I find him not guilty and acquit him forthwith.
13. The bail bond furnished on behalf of A1 shall remain in force for a period of six months from today.
14. This judgment is delivered only in respect of A1 and case shall remain pending for co-accused, Deepa @ Deepak Khodal.
15. Given under my hand and seal of this court on this 10th day of August, 2026, at, Biswanath.

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LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE
PW1	Sri Kalidas Kalandi	Informant/hearsay evidence

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
	NIL	

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
	NIL	

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sl. No.	Exhibit Number	Description
	NIL	

B. Defence:

Sl. No	Exhibit Number	Description
	NIL	

C. Court Exhibits:

Sl No.	Exhibit Number	Description
	NIL	

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D. Material Objects:

Sl. No.	Exhibit Number	Description
	NIL	

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