

GR. Case No. 493 of 2021

(CNR No.WBBK0A-000748)

(J.O.C. No.WB01015)

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE,
KHATRA, BANKURA

Present: **Smt. Parna Bhattacharya,**
Additional Chief Judicial Magistrate,
Khatra, Bankura

Case No- G.R. 493/2021
T.R. No- 1636 T/2022

[Reg. No. 545/2022]

State of West Bengal

vs.

1. Kailash Karmakar of village- Seuli, under P.S- Goaltore , Dist-
Paschim Medinipur Accused Person

U/S- 363/365 of the Indian Penal Code, 1860.

Judgment Delivered On **18th day of January, 2023**

J U D G M E N T

The instant case is a case U/s. 363/365 of Indian Penal Code, 1860.

The case was instituted on the basis of the written complaint of De-facto Complainant, Sanjit Karmakar, S/o Late Madhu Karmakar of village Saldahara, P.S.-Sarenga, Dist- Bankura, to the effect that on 14.10.2021 the accused with the help of his family members has kidnapped the daughter of the said de-facto complainant from the house of the D/C and secretly as well as wrongfully confined her. Thereafter, this case was initiated.

On the basis of the said written complaint, Sarenga P.S. case No.57/21 dtd. 16/10/2021, U/S-.363/365 of the Indian Penal Code, 1860 was

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initiated against the accused person.

The case was endorsed to S.I. Himadri Sekhar Giri, of Sarenga P.S. for investigation. The accused Kailash Karmakar was arrested and produced before court on 18.10.2021 and he was enlarged on bail.

After completion of investigation, I.O. submitted Charge Sheet against the accused persons being Sarenga P.S. Charge-Sheet No. 58/21 dt. 31.10.2021 U/s 363/365 of the Indian Penal Code, 1860, as a prima facie case was well established against the accused person.

This court took cognizance of the offence on the police report and transferred the case to its personal file for disposal.

Thereafter upon hearing both sides charge was framed against the accused person U/S- 363/365 of Indian Penal Code, 1860 on 14.12.2022 and the contents of the charge was read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

Thus commenced the trial and the case was posted for evidence. The prosecution in support of its case has examined two witnesses namely, the D/C Sanjit Karmakar as P.W.-01, Pinki Karmakar, the daughter of the D/C as P.W.-02 .

The following documents has been marked as Exhibit:-

Written Complaint marked as Exhibit-P-1/P.W-1.

After closure of the evidence for prosecution the accused person was examined U/s 313 of Cr.P.C. on 18.01.2023 where he has pleaded innocence yet again but declined to adduce any evidence in his support.

The defence case, as revealed is that of absolute denial of the prosecution allegation and also of his complete innocence.

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POINTS FOR DETERMINATION

1. Whether the prosecution has been able to prove its case against the accused person beyond all reasonable doubts or not?
2. Whether the accused person is guilty of the offence U/s 363/365 of Indian Penal Code or not ?

DECISION WITH REASONS

Both the points are taken up together for discussion for the sake of convenience, brevity and their inter-relation.

Now, let us find out how far the prosecution has been successful in proving the case against the accused persons beyond all reasonable doubts.

To prove such charges the prosecution has examined only two witnesses i.e. father of the victim ,the D/C Sanjit Karmakar has deposed as P.W-1 and victim namely Pinki Karmakar as P.W- 2 and both of them have stated on dock that they cannot remember anything about the incident.

This is the sum total of evidence that has come before this court and from the evidence it is amply clear that there is no incriminating evidence against the accused person to that effect that the accused has wrongfully kidnapped the victim from the lawful custody of her father with intent to secretly and wrongfully confined her. In absence of adequate evidence on behalf of prosecution, charge is not established and it results into acquittal of the accused person, as the benefit of doubt cannot be denied to him in the best interest of justice.

Hence, it is,

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ORDERED,

that the accused Kailash Karmakar is found not guilty of the offence punishable U/s 363/365 of I.P.C.

He is accordingly, acquitted from this offence as well as this case U/s 248(1) Cr.P.C. and set at liberty.

The surety is discharged from his bail-bond.

Seized alamats, if any, be disposed off according to law after expiry of the period of appeal.

The victim has the right to prefer an appeal against this Judgment and order of acquittal in terms of proviso of Section 372 of the Cr.P.C and to avail free legal aid service as per entitlement and let a copy of this order be forwarded to District Magistrate and Chairman SDLSA in terms of the decision of Hon'ble High Court at Calcutta dated 29.03.2022 in Sabitri Bhunya vs. State of West Bengal and others (CRA 266 OF 2020/ CRAN 1 of 2020).

This Judgment and order is pronounce in open court on this 18th Day of January, 2023.

Dictated & Corrected by

Sd/-
(SMT. P. BHATTACHARYA)
A.C.J.M., Khatra

Sd/-
(SMT. PARNA BHATTACHARYA)
Additional Chief Judicial Magistrate,
Khatra, Bankura