

**IN THE COURT OF SUB-DIVISIONAL JUDICIAL MAGISTRATE (M),
SADIYA, CHAPAKHOWA**

Present: **Sri Rajrishi Shandilya,**
Sub-Divisional Judicial Magistrate (M) Sadiya,

Date of Judgment: 29.06.2024

GR 334 of 2021, PRC CASE NO.63 OF 2022

(Sadiya P.S. Case No.160/2021)

COMPLAINANT:	STATE OF ASSAM
REPRESENTED BY	Ld. APP SMTI. SULEKHA KAR.
ACCUSED PERSON(S)	1. Sri Dipankar Das S/O Sri Guruchand Das R/O :-Desoi Gaon P.S. :-Sadiya Dist.Tinsukia, Assam.
REPRESENTED BY	Sri P. Chiring, Learned Defence Counsel
DATE OF OFFENCE	27/11/2021
DATE OF FIR	01/12/2021
DATE OF CHARGE-SHEET	31/05/2022
DATE OF FRAMING OF CHARGES	01/12/2022
DATE OF COMMENCEMENT OF EVIDENCE	04/03/2023, 29/03/2023, 06/05/2023, 10/07/2023, 09/08/2023, 04/01/2024
DATE OF WHICH JUDGMENT IS RESERVED	29/06/2024
DATE OF JUDGMENT	29/06/2024
DATE OF THE SENTENCING ORDER, IF ANY	NIL



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Accused Details

Rank of the Accused	Name of Accused	Date of Arrest	Date 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.
1.	Dipankar Das		31.08.2022	365 of IPC.	ACQUITTED	NIL	NIL

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JUDGMENT**PROSECUTION CASE**

1. The prosecution case is based on ejahar, lodged by the informant **Sri Keshabananda Hazarika** alleging inter-alia that on 27.11.2021 the accused person Sri Dipankar Das persuaded the victim to go with him in his Auto Rikshwa taking the advantages of absence of her parents and took her to an unfamiliar place. Then the victim started to weep on seeing unfamiliar place and then the accused drop her back to her house. Hence the case.

INVESTIGATION

2. On the basis of aforesaid ejahar, police registered a case as Sadiya P.S. Case No.160/2021 under sections 365 of IPC. On completion of investigation, charge sheet was submitted against the accused person under Sections 365 of IPC.

FRAMING OF CHARGE

3. Accused person appeared and he was allowed to go on Court bail. Copies of relevant documents were furnished to the accused person. Considering the relevant documents and on hearing both the parties, a prima-facie case against the accused person was found. Accordingly, charge under section 365 IPC was framed, read over and explained to the accused person and he was asked as to whether he pleads guilty, to which he pleaded not guilty and claimed to be tried.



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TRIAL

4. Prosecution side adduced evidence of eight witnesses and exhibited three documents. Considering the nature of evidence adduced, prosecution declined to adduce any further evidence and on the prayer of the Ld. APP., prosecution evidence was closed.

5. Considering the nature of the evidence adduced, the statement of the accused U/s.313 Cr.P.C. has been recorded. The defense case is of total denial and they declined to adduce evidence.

I have heard the argument of both the sides.

6. POINTS FOR DETERMINATION

- i) Whether the accused person kidnaped the daughter of the informant?

DISCUSSION, DECISION AND REASONS THEREFORE:-

7. **PW1, Keshabananda Hazarika** in his examination in chief deposed that he is the informant of the instant case and he knows the accused person. In the year 2021 the incident occurred at around 11.00 AM when the accused person kidnapped his daughter in his auto and after half an hour he dropped his daughter at a place which is half a kilometer away from his house. Further, in his cross examination, PW1 has stated that on the day of the incident he was not present at his home and on the next day of the incident he has lodged an FIR. Further he has declined all the suggestion to him by the defense counsel.

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8. **PW2, Pinchi Hazarika** in her examination in chief deposed that she knows the accused person and has deposed that in November 2021, in absence of her father and mother, the accused came to her grandmother's home and forcefully took her in his auto and after sometime the accused dropped her in front of her grandmother's home. Further, in her cross examination, PW2 has stated that when she was been taken by the accused, there were no other persons present in the auto. Further she has declined all the suggestions made to her.



9. **PW3, Rekha Hazarika** in her examination in chief deposed that she knows the accused person and the informant is her husband. On 27.11.2022 she went to Tinsukia to meet her elder daughter and she kept her younger daughter Princy Hazarika with her maternal aunt. On that day at around 11.30 AM the accused enticed her younger daughter and took her on an auto. He roamed many places in the auto taking her daughter and dropped her on the road at Desoi Gaon. Her husband filed an ejahar against the accused regarding that incident. Further, in her cross examination, PW3 she has stated that she did not see the accused taking her daughter on the auto. Further, she declined all the suggestions made to her. She submitted documents of her daughter to police. Further, she declined all the suggestions made to her.

10. **PW4, Dipali Das** in her examination in chief deposed that she knows both the informant and the accused person but she does not know anything about the instant case. Hence, her cross examination was declined.

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11. PW5, Maina Das in her examination in chief deposed that she knows both the informant and the accused person. Further, she deposed that she does not know anything about the case as she was absent when incident occurred.

12. PW6, Jyotima Tamuli in her examination in chief deposed that she knows the informant and the accused person. She does not know anything about the instant case. Further, her cross examination was declined.

13. PW7, WSI(P) Sangeeta Choudhury in her examination in chief deposed that On 03.05.2022 O/C, Sadiya Sim Sing Timong endorsed her to with the instant case. On 04.05.2022 and 22.05.2022 she went for house search but she could not find the accused at his home. On 31.05.2022 she has submitted the charge-sheet. Her predecessor has investigated the instant case she only submitted the charge-sheet. Further, in cross examination of PW7 stated that she has filed the charge-sheet U/sec.365 of IPC. She has filed the charge-sheet on the basis of the investigated which was done by the previous I/O. Further, she declined all the suggestions made to her.

14. PW8, Dr. Junuma Kachari in her examination in chief deposed that on 03.12.2021, she examined Miss Pinchi Hazarika D/O Keshabananda Hazarika at about 1.10 PM at Sub-Divisional Civil Hospital Chapakhowa who was escorted by WPC Bandana Gogoi.

15. On Examination, she found:-

1. No any violence mark or sign of physical assault found in her body.
2. No Foreign material found in her genital region.
3. No history of sexual assault.



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4. No sign of sexual assault found in her body. In her opinion no sign of physical and sexual assault found in her body. Further, in cross examination of PW8 she has stated that she has been declined.

16. On juxtaposing the PWs, PW1 in his cross examination, he has stated that on the day of the incident he was not present at his home Further, PW3 in her cross examination, she has stated that she did not see the accused taking her daughter on the auto. Further it is pertinent to mention that PW4, Dipali Das in her examination in chief deposed that she knows both the informant and the accused person but she does not know anything about the instant case. Hence, her cross examination was declined.

17. Further, PW5, Maina Das in her examination in chief deposed that she knows both the informant and the accused person. Further, she deposed that she does not know anything about the case as she was absent when incident occurred.

18. PW6, Jyotima Tamuli in her examination in chief deposed that she knows the informant and the accused person but she does not know anything about the instant case. Further, her cross examination was declined.

19. Hence on the basis of the above discussion it is concluded that prosecutions have failed to prove the guilt of the accused person, namely Sri Dipankar Das alleged u/sec.365 of IPC beyond reasonable doubt.

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20. Thus the accused person namely Sri Dipankar Das is acquitted from the charges of offence punishable under section 365 of IPC



and is set at liberty forthwith.

21. As a result of the foregoing discussions, the following order is passed in this case.

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ORDER

22. Accused person namely Sri Dipankar Das stands acquitted in this case as prosecution side failed to prove the guilt of the accused person.

23. The accused person be set at liberty forthwith, if in custody and not wanted in any other case.

24. Bail bond to be discharged in accordance with law, after a period of 6(Six) months.

25. Seized materials, if any, should be disposed of in due course of time.

26. Judgment is pronounced and delivered in open court, under my hand and seal of this Court on 29th day of June, 2024.

Rajrishi Shandilya,

(Shri Rajrishi Shandilya)
Sub-Divisional Judicial Magistrate(M),
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APPENDIX**LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES****A. Prosecution:**

RANK	NAME	NATURE OF EVIDENCE
PW-1	KekhabananaHazarika	Informant
PW-2	PinchiHazarika	Prosecution witness
PW3	RekhaHazarika	Prosecution witness
PW4	Dipali Das	Prosecution witness
PW5	Maina Das	Prosecution witness
PW6	JyotimaTamuli	Prosecution witness
PW7	WSI(P) SangeetaChoudhury	Prosecution witness
PW8	Dr. JunumaKachari	Prosecution witness

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
NIL	NIL	NIL

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
NIL	NIL	NIL

LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS**A. Prosecution:**

Sr. No.	Exhibit Number	Description
1.	Ext.P1/PW1	Is the ejahar
2.	Ext.P1(1)/PW1	Is his signature
3.	Ext.P2/PW7	Is the seizure list
4.	Ext.P2(1)/PW7	Is her signature
5.	Ext.P3/PW8	Is the medical report
6.	Ext. P3(1)/PW8	Is her signature

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B. Defence:

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

D. Material Exhibits:

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

Rajrishi Shandilya.

(SRI RAJRISHI SHANDILYA)

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