

**IN THE COURT OF THE Ld. JUDICIAL MAGISTRATE
1st CLASS, DANTAN, DIST. PASCHIM MEDINIPUR**

PRESENT:

MR. MIFTAHUL ISRAR

JUDICIAL MAGISTRATE, 1ST CLASS

DANTAN, DIST. PASCHIM MEDINIPUR

G.R. No. 153 of 2022

CIS Filing No. 804 of 2022

CIS Registration No. 509 of 2022

CNR No. WBWM0G-000805-2022

S T A T E

-VS-

Pulin Hembram

..... ACCUSED PERSONS

CHARGE UNDER SECTIONS 363/365 OF THE INDIAN PENAL CODE, 1860

JUDGMENT DELIVERED ON THIS 39th DAY OF SEPTEMBER, 2022

J U D G M E N T

The wheels of criminal law was set into motion that one Makhan Soren [in short the *de facto* complainant] lodged a written complaint against accused Pulin Hembram (in short the accused) with Belda Police Station.

The crux of the allegation is that on 28.02.2022 at about 10.00 am, the daughter of the complainant namely Laxmi Soren went to Bakharabad High School. But, she did not returned home. After that the defacto complainant came to know on 02.03.2022 that the accused kidnapped her daughter for some ill intention. Hence this is complaint.

On receipt of such compliant, the Belda Police Station started Belda Police Station case Number 76/2022 dated 03.03.2022 under section 363/365 of Indian Penal Code (in short IPC).

After completion of investigation, the authority of Belda Police Station submitted Charges Sheet against the sole accused under section 363/365 of the Indian Penal Code.

Let, it remain mentioned that the accused person was enlarged on bail in the meantime and as such he remained on

court bail till the end. Post service of copy the record was transferred to this Court for trial and disposal.

At the initial stage, the charge was framed against the accused under Section 363/365 of the India Penal Code, 1860, (in short the IPC) to which he pleaded innocence and for which trial of the case commenced. That burdened the prosecution to prove the case.

During the course of trial of this case, the prosecution brings following witnesses:

- | | | |
|---------------------------------------|---|----------|
| 1. Makhan Soren (defacto complainant) | : | P.W. - 1 |
| 2. Surul Tudu (victim) | : | P.W. - 2 |
| 3. Bhim Soren | : | P.W. - 3 |
| 4. Laxmi Soren (victim) | : | P.W. - 4 |

During the course of prosecution witnesses, following documents were marked as Exhibit :

- | | | |
|---|---|-------------|
| 1. Signature of P.W. 1 appears on the written complainant. | : | Exhibit – 1 |
| 2. Statement of the victim recorded under section 164 Cr.P.C. | : | Exhibit – 2 |

During the evidence, chief and cross examination of the prosecution witnesses valuable and relevant evidences does not come out to incriminate the accused person. The written complaint, was not marked as Exhibits to this case on behalf of the prosecution. The evidence of this case was closed as per prayer of the Ld. A.P.P. There is a shadow of reasonable doubt whether the accused person has committed the offence alleged against him or not. The defense did not adduce any evidence. The case, as it appears from the trend of argument and cross examination as well as examination the accused person under section 313 Cr.P.C. is that of denial of prosecution case.

With such materials in hand this Court intends to address the present case by disposing the following points for determinations:

POINTS FOR DETERMINATION

1. Whether the accused person did the overt acts as alleged?
2. Whether the prosecution has been able to prove its case?

DECISION WITH REASONS

POINT NOS. 1 AND 2:: These two points are clubbed together in order to avoid unnecessary parade of words. The defacto complainant (P.W. 1) has supported the prosecution case. But, during the evidence of the other prosecution witnesses including the victim considerable & materials evidence have not come out to stand the prosecution case. The victim Laxmi Soren (P.w. 4) in her statement recorded under section 164 Cr.P.C. (Exhibit - 2) stated that “on 11.04.2019, I left my home and went to her friend’s house”. The written complaint & other valuable documents were not marked as Exhibits on behalf of the prosecution. The prosecution witnesses could not say much or less to incriminate the accused person. There is a shadow of reasonable doubt and suspicious whether the accused person has done over acts on the issue. The advantage of benefit of doubt shall get accused person. They practically leave the record without any incriminating evidences against the accused.

This Court thinks that FIR in itself is no substantive piece of evidence but it is to be used as corroboration or contradicting by the witnesses. What is in the FIR has to be testified on witness box by the witnesses of prosecution.

Otherwise, that in itself is practically an impotent document to drive home the charges against the accused by own force.

But when there is no workable witness in hand, the Court is of the opinion that the same is of no use.

In the result, the Court could not convince itself that the prosecution has been able to prove its point, needless to say beyond any shadows of reasonable doubt.

In short, the Court finds several failure of the prosecution to make the case stand at its own strength, leaving enough room of doubt for the Court to hold that the accused person is not guilty of the offence charged against him.

Accordingly it is :

ORDERED

That the accused person **Pulin Hembram** is found not guilty of the charges under sections 363/365 of the IPC as were leveled against him.

He is hereby acquitted from said charges under Section 248(1) of the Code of Criminal Procedure, 1973.

He be set at liberty forthwith.

Surety be released from bonds.

No alamot.

Note in the T.R.

Sd/- Miftahul Israr
Judicial Magistrate
1st Class, Dantan
J.O. Code WB01295

Typed, corrected and
printed by me:

Sd/- Miftahul Israr
Judicial Magistrate
1st Class, Dantan
J.O. Code WB01295