

IN THE COURT OF THE I ADDITIONAL SESSIONS JUDGE, KURNOOL.

PRESENT: **Sri A. Srinivasa Kumar**
I Additional Sessions Judge, Kurnool.

Friday, the 8th day of December, 2023.

Sessions Case No.183/2023

Complainant	State represented by Sub–Inspector of Police, Sanjamala P.S.
Name of the accused	Poola Chandra Sekhar, S/o. P. Keshava Naidu @ Keshalu, aged 20 yrs, r/o.Ramireddypalli Village, Sanjamala Mandal.
Offence/s charged	u/S.366 of Indian Penal Code
Plea of the accused	Pleaded not guilty
Name of the police station & Cr.No.	Crime No.284/2021 of Sanjamala P.S.
Findings of the Judge	Found not guilty
Sentence or order	In the result, the accused is found not guilty for the offence punishable under Section 366 of Indian Penal Code, thereby, acquitting him under Section 235 [1] of the Code of Criminal Procedure. The bail bonds of the accused shall be in force for a period of six months as mandated under Section 437 of Code of Criminal Procedure. Since M.O.1–Motorcycle bearing No. AP 21 N 7642 , which was produced during trial, shall be given to its owner, by name, Bala Nagi Reddy under proper acknowledgment, after verifying the Registration Certificate, as case record shows that it belongs to said Bala Nagi Reddy.

This case coming on this day for hearing before me in the presence of Additional Public Prosecutor for the State, Ms. B. Jyothi Rani and Sri N. Murali Mohan, Advocates for the Accused, upon hearing both sides, having perused the material on record and having stood over for consideration till this day, this Court delivered the following:

J U D G M E N T

The sole accused in this case has been charge sheeted by the Sub-Inspector of Police, Sanjamala Police Station for his involvement in an offence allegedly committed under Section 366 of Indian Penal Code [for the short IPC], based on the written complaint, dated 27th October, 2021 of de-facto complainant, namely, Gadekari Chandramohan, who is the father of victim girl, by name, Kaveri, against the accused.

2. The facts and circumstances of the case, which lead the Sanjamala Police to file the charge sheet by the Investigating Officer against the accused, are that the de-facto complainant, who hails from Ramireddy Palle village has one daughter and one son, and the victim girl is having 17 years, who after completion of 10th class, was learning tailoring at home and prior to the incident, accused being the same village, made a proposal through his father, asking victim girl for marriage, for which, he refused and on 25th October, 2021 while all the family members were sleeping, at about 2.00 am., victim girl left the house and did not come and when he along with his wife went in search of victim girl, he came to know through one Bhaskar that accused took her daughter on a motorcycle towards Perusomala, where also, he did not find the victim girl, then, he preferred said complaint before the Police.

Based on the said complaint, the Investigating Officer-LW.9 took up investigation, examined all the relevant witnesses while the statements of victim girl and her parents were recorded by LW.8, later, LW.10 arrested the accused on 30th

October, 2021 and finally, after completion of procedural aspects, filed charge sheet under Section 366 of IPC against the accused.

3. The Judicial Magistrate of First Class, Koilakuntla has taken cognizance of the case under Section 366 IPC against the accused. On appearance of the accused, copies are furnished to the accused under Section 207 Cr.P.C. Subsequently, the Judicial Magistrate of First Class, Koilakuntla after going through the record and having found that the case was against a minor child followed by kidnap, and it is exclusively triable by the Court of Sessions in Additional Court, has committed the case to the Principal Sessions Court, through its orders in P.R.C.No.18/2022, dated 30th August, 2022 and after taking cognizance as 366 of IPC., in S.C.No.183/2023, it was made over to this Court on 6th July, 2023 as per Section 25 of the commissions for Protection of Child Rights Act, 2005.

4. The accused made his appearance on 22nd August, 2023 and on 9th November, 2023, this Court after examining the accused, framed charge against the accused for the offence under Section **366 of IPC**.

5. The prosecution in proof of said charge against the accused, examined the parents of victim girl, eye witness and victim girl, as PW.1 to PW.4, respectively, besides examining the Investigating Officers, as PW.5 & PW.6 and marked Ex.P1 to Ex.P20 and also M.O.1.

6. After closure of the prosecution side evidence, the accused was examined on 7th December, 2023 as per the Procedure under Section 313 of Cr.P.C by this Court, while reading out the incriminating part of the evidence spoken by PW.5 & PW.6 against

him and as a reply, the accused stated that whatever the evidence spoken by the witnesses against him, is a falsification and according to him, he is innocent and this case is foisted against him.

7. Heard the learned Additional Public Prosecutor and also the learned Advocate for the accused. The Advocate for the accused while drawing the attention of this Court to the statements of material witnesses, on whose statements, the said case was registered, did not state anything against the accused in their respective evidences, and all of them firmly stated that no such kidnap was committed by the accused, thereby, ending this case as an acquittal. On the other hand, the Additional Public Prosecutor has lead the matter to the discretion of this Court.

8. This Court has perused the entire case record and also took into consideration of the contentions of the Additional Public Prosecutor and the Advocate for accused and formulated the following points for consideration.

1. Whether accused has committed the offence u/S.366 IPC ?
2. If so, to what relief?

9. **POINT NO.1:**

Whether accused has committed the offence u/S.366 IPC ?

A. In the factual matrix, it is the evidence of de-facto complainant as PW.1 to such kidnap of his daughter by the accused, that nobody kidnapped his daughter i.e., the victim girl. So far as the complaint is concerned, it is the evidence of PW.1 that he did not give any complaint against the accused in Sanjamala Police Station, but Police obtained his signature in blank white paper which is Ex.P1. PW.1

further deposed as to the returning of victim girl that on the next day, his daughter came back home as she went to her sister's house. PW.1 while admitting about recording of his statement along with his wife and daughter by the Magistrate, stated that he did not know the contents of such statement and such statement was at the instance of Police and Ex.P2 and Ex.P3 are his admitted signatures. From the said evidence except admission of signatures in the statements, nothing could be elicited from him as to the alleged kidnap of the victim girl said to have been committed by the accused. Even the Additional Public Prosecutor cross examined PW.1 after taking permission of this Court, failed to elicit any valid information from such cross examination except basing on few suggestions.

B. The prosecution also examined one Gadekari Lakshmi Prabhavathi, who is the wife of PW.1, as PW.2 and she categorically stated that no such incident of kidnap of victim girl, was occurred, thereby, treating her evidence as hostile and even from her cross examination, the learned Additional Public Prosecutor could not elicit any useful information except posing suggestions, which were denied by her.

C. The prosecution further examined one Sogala Bhaskar as PW.3, who allegedly witnessed the kidnap of victim girl, but he too did not state anything about such kidnap of accused and simply stated that he did not know anything about this case nor his statement was recorded by the Investigating Officer.

D. The prosecution also examined the victim girl as PW.4, on whose disappearance, PW.1 moved such a complaint, on which, the case was registered against the accused, stated in her evidence that she knows the accused and he is her

husband now and she deposed that there was no such incident on 26th October, 2021 and she does not know about the complaint of PW.1 in Sanjamala Police Station and she further deposed that on 26th October, 2021, she had been to her sister's house and did not return home and that was the reason for PW.1 to give complaint about her missing. She further deposed that she returned home on 28th October, 2021 and she too while admitting about recording her statement by Magistrate, stated that she did not know the contents of it and such statement was at the instance of Police. From such evidence, it can be said that PW.4 completely turned hostile without saying single word against the accused as to her kidnap and nothing could be elicited from her cross examination also by the Additional Public Prosecutor.

E. The prosecution though examined the material witnesses as PW.1 to PW.4 and who categorically stated earlier in their statements as to the kidnap by the accused, did not state such kidnap said to have been committed by the accused in their evidence, thereby, resiling from such earlier versions.

F. PW.5, namely, Kolimigundla Nagaraju, who is the Investigating Officer in this case, has spoken about his registering of kidnap case on the written statement of PW.1, on 27th October, 2021, in Cr.No.284/2021 including the recording the statement of the witnesses and also drawing of rough sketch etc.

G. PW.6, namely, Malla Thimma Reddy, who being the successor of PW.5, has spoken about the recording of statements of PW.1 and PW.2 again, arrest of accused and seizure of motorcycle bearing No.AP 21 N 7642 as in M.O.1 and got

recorded the statements of PW.1, PW.2 and PW.4 by the Magistrate [LW.8], Allagadda and ultimately, filing of charge sheet.

H. From the above evidence, the prosecution could not elicit any valid information in proof of charge framed against the accused, as prime witnesses turned hostile to its case. Considering all these facts and circumstances, this Court has no hesitation to conclude that the prosecution has miserably failed to prove the offence charged against the accused, thereby, ending the case as an acquittal.

10. In the result, the **accused** is found **not** guilty for the offence punishable under Section **366** of Indian Penal Code, thereby, acquitting him under Section **235 [1]** of the Code of Criminal Procedure. The bail bonds of the accused shall be in force for a period of six months as mandated under Section **437** of Code of Criminal Procedure. Since **M.O.1**—Motorcycle bearing No.**AP 21 N 7642**, which was produced during trial, shall be given to its owner, by name, Bala Nagi Reddy under proper acknowledgment, after verifying the Registration Certificate, as case record shows that it belongs to said Bala Nagi Reddy.

Typed to my dictation, corrected, signed and pronounced by me on this the 8th day of December, 2023.

I Additional Sessions Judge,
Kurnool.

APPENDIX OF EVIDENCE
[WITNESSES EXAMINED]

FOR PROSECUTION:

PW.1/04.12.2023: G. Chandra Mohan

PW.2/04.12.2023: G. Lakshmi Prabhavathi

PW.3/04.12.2023: S. Bhaskar

PW.4/05.12.2023: G. Kaveri

PW.5/06.12.2023: K. Nagaraju [A.S.I]

PW.6/06.12.2023: M. Thimma Reddy [S.I. of Police]

FOR DEFENCE: – None –

DOCUMENTS MARKED

FOR PROSECUTION:

Ex.P1: Signature of PW.1 in the complainant

Ex.P2 & Ex.P3: Signatures of PW.1 in 164 Cr.P.C. statement, dt.12.11.2021.

Ex.P4: 161 [3] Cr.P.C. statement of PW.1 recorded by LW.9, dt.27.10.2021.

Ex.P5: 161 [3] Cr.P.C. statement of PW.1 recorded by LW.10, dt.30.10.2021.

Ex.P6 & Ex.P7: Signatures of PW.2 in the 164 Cr.P.C. statement, dt.12.11.2021

Ex.P8 & Ex.P9: 161 [3] Cr.P.C. statements of PW.3 recorded by LW.9, dt.27.10.2021 &
LW.10, dt.30.10.2021

Ex.P10: 161 [3] Cr.P.C. statement of PW.4 recorded by LW.9, dt.27.10.2021

Ex.P11 & Ex.P12: Signatures of PW.4 in the 164 Cr.P.C. statement, dt.12.11.2021

Ex.P13: 161 [3] Cr.P.C. statement of PW.4 recorded by LW.9, dt.27.10.2021

Ex.P14: F.I.R. in Cr.No.284/2021

Ex.P15: Complaint given by PW.1

Ex.P16: Rough sketch

Ex.P17: Panchanama, dt.12.11.2021

Ex.P18 to Ex.P20: 164 Cr.P.C. Statements of PW.1, PW.2 & PW.4 recorded by Magistrate

FOR DEFENCE: – Nil –

MATERIAL OBJECTS MARKED

M.O.1: Motorcycle bearing No.AP 21 N 7642

**I Additional Sessions Judge,
Kurnool.**