

FORM A
IN THE COURT OF JUDICIAL MAGISTRATE, KALNA, PURBA
BARDHAMAN

Present: Debojit Das (J.O. Code: WB01370)

Judicial Magistrate, Kalna Purba Bardhaman

GR 1931 of 24 (Reg. No. 2490 of 25)

T.R. no. 916 of 25

Date of Judgment: 17.6.2026

Details of FIR/Crime and Police Station

Complainant	State of West Bengal
Represented by	Ld. APP, Rupam Majumder
Accused	Sujay Pandit and another
Represented by	

FORM B

Date of offence	19.7.24
Date of FIR	20.7.24
Date of Charge sheet	30.8.24
Date of framing of Charges	09.06.26
Date of commencement of Evidence	10.06.26
Date on which judgment is reserved	N.A.
Date of the judgment	17.6.26
Date of the sentencing order, if any	N.A.

Accused Details

Rank of the accused	Name of the 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 the purpose of Section 428 CrPC
1.	Sujay Pandit and another			u/S 137(2), 140(3), 3(5) BNS	Acquitted	N.A	N.A

FORM C

LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES Prosecution

RANK	NAME	NATURE OF EVIDENCE (E Y E WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
P.W-1	Subarna Bag	Informant
P.W-2	Mithun Bag	Witness
P.W-3	Susmita Bag	Witness

Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
D.W-1	N.A	N.A

Court witness, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
C.W-1	N.A	N.A

LIST OF PROSECUTION/DEFENCE EXHIBITS/COURTS EXHIBITS

Prosecution

Sr. No.	Exhibit No.	Description
1.	Exhibit P1/1	The signature of PW1 in the written complaint
2.	Exhibit P2	The statement of the victim recorded u/S 183 BNSS

Defence

Sr. No.	Exhibit No.	Description
1.	N.A	N.A

Court Exhibit

Sr. No.	Exhibit No.	Description
1.	N.A	N.A

Material Objects

Sr. No.	Material Object No.	Description
1.	NA	NA

J U D G M E N T

Facts of the Case

1. As per the charge sheet, on 20.7.24 at about 00:15 hours, a written complaint was lodged at Monteswar Police Station by the informant, namely Subarna Bag. In the complaint, it was alleged that on 19.7.24 at about 11 hrs her minor daughter was kidnapped by accused Sujoy Pandit and another.

FIR and Investigation

2. Pursuant to the informant's complaint, FIR was registered, and an investigation was conducted by the Investigating Officer (I.O.). Upon conclusion of the investigation, a charge sheet (No. 384) was submitted under Sections 137(2), 140(3) and 3(5) BNS against the **two** accused. Cognizance of the offences was taken by the competent Court, and the case was subsequently transferred to this Court for adjudication.

Framing of Charge

3. This Court framed charges against the accused under Sections 137(2), 140(3) and 3(5) BNS. The charges were read over and explained to the accused. The accused pleaded "Not Guilty" and claimed to be tried.

Evidence on Record

4. During the trial, the prosecution examined the informant/victim namely Subarna Bag as PW1, Mithun Bag as PW2 and Susmita Bag as PW3. The signature of PW1 in the written complaint is marked as Exhibit P1/1, the statement recorded u/S 183 BNSS of the PW3 is marked as Exhibit P2. This Court, mindful of the constitutional mandate under Article 21 of the Constitution of India guaranteeing a speedy trial, after evaluating the evidence already on record, closed prosecution evidence.

Examination of the Accused under Section 351 BNSS

5. The statements of the accused were recorded under Section 351 BNSS, wherein the accused categorically denied all allegations levelled against the accused. The accused declined to adduce any evidence in defence, resting the case on the denial of the prosecution's claims.

Points for Determination

6. The sole point for consideration before this Court is:
 - a) Whether the accused are guilty of committing offences punishable

under Sections 137(2), 140(3) and 3(5)?

7. This Court has carefully considered the submissions of the learned counsel for both the prosecution and the defence and has meticulously perused the evidence on record. The analysis and findings are delineated below.

Evaluation of Prosecution Evidence

8. PW1 Suparnya Bag deposed that she lodged the complaint at Monteswar PS against Sujay Pandit and another. She deposed that they are present in the Court room today, whom she identified. She deposed that the incident occurred in the year 2024, and she lodged the complaint because her minor daughter, Susmita Bag, was missing. She deposed that her daughter was later recovered by the police, and she does not recall anything else. She further deposed that the written complaint was prepared as per her instruction and she signed it, identifying her signature which was marked as Exbt P-1/1. During cross-examination by the defence, she deposed that the I.O. did not interrogate her and that she does not recall what was written in the complaint.
9. PW2 Mithun Bag deposed that the informant is his wife. He deposed that she lodged the complaint because their minor daughter was missing, and that she was recovered later. He deposed that he does not recall anything else. During cross-examination by the defence, he deposed that the I.O. did not interrogate him.
10. PW3 Susmita Bag deposed that the informant is her mother. She deposed that her mother lodged the complaint because she had left her home without informing her parents. She explicitly deposed that she went to her aunt's residence and that nobody kidnapped her. She further deposed that her statement was recorded by the Ld. Magistrate, which was read over to her and she signed it. She identified the said statement, which was marked as Exhibit P-2. During cross-examination by the defence, she deposed that the I.O. did not interrogate her.
11. On perusal of Exhibit P2 it is found that the PW3 stated before the Ld. Magistrate that after quarrel with her mother, she went to her aunt's house, no body kidnapped her.

Decision with Reasons

12. The prosecution is required to establish beyond reasonable doubt that the accused persons kidnapped or abducted the victim from lawful guardianship and thereafter committed the aggravated offence alleged under Section 140(3) BNS, acting in furtherance of their common intention under Section 3(5) BNS.
13. In a case of alleged kidnapping of a minor, the evidence of the victim assumes paramount importance. The Court must carefully examine whether the victim was in fact taken away by the accused persons and whether the essential ingredients of the offences charged have been established through reliable evidence.
14. PW1 Subarna Bag deposed that she lodged the complaint because her minor daughter was missing. She further stated that her daughter was subsequently recovered by the police. However, she did not depose that either of the accused persons kidnapped her daughter. She did not narrate any circumstance showing that the accused persons had taken away the victim from lawful guardianship. She merely stated that her daughter had gone missing and that she does not recall anything else.
15. During cross-examination, PW1 stated that she does not remember the contents of the written complaint. Therefore, the allegations contained in the complaint have not been substantiated through her substantive evidence before the Court. PW2 Mithun Bag, the father of the victim, also did not support the prosecution case. He merely stated that the complaint was lodged because their daughter was missing and that she was subsequently recovered. He did not depose regarding any act committed by either accused. He did not state that the accused persons had taken away his daughter or induced her to leave her home. Thus, both the parents of the victim have failed to provide any evidence connecting the accused persons with the alleged offences. The most material witness in the case is PW3 Susmita Bag, the alleged victim herself. Her testimony completely demolishes the prosecution case.
16. PW3 categorically deposed that she left her house without informing her parents after a quarrel with her mother. She specifically stated that she went to her aunt's residence and that nobody kidnapped her. Her testimony is not a stray statement made during trial. It finds complete corroboration from Exhibit P-2, namely her statement recorded before

the learned Magistrate under Section 183 BNSS. On perusal of Exhibit P-2, it is evident that she had made the same statement before the Magistrate, namely that after a quarrel with her mother she went to her aunt's house and that nobody kidnapped her. Thus, the victim has consistently maintained from the earliest available opportunity that no kidnapping had taken place.

17. The Court finds no reason to discard the testimony of PW3. She is the person who allegedly suffered the offence. Her evidence is clear, unambiguous and entirely exculpatory so far as the accused persons are concerned. Once the victim herself states that she voluntarily left her home and went to her aunt's residence and that nobody kidnapped her, the very foundation of the prosecution case disappears. There is no evidence on record showing that either accused took or enticed the victim away from the lawful guardianship of her parents. There is no evidence of inducement, transportation, concealment, confinement or any other circumstance indicative of kidnapping or abduction.
18. The prosecution has also failed to establish any chain of events connecting the accused persons with the disappearance of the victim. No witness has stated that the victim was seen in the company of the accused. No recovery was effected from their possession. No incriminating circumstance has been brought on record against them.
19. The Court also notes that all three prosecution witnesses stated that the Investigating Officer did not interrogate them. While that circumstance alone may not be decisive, it further reflects the weakness of the prosecution evidence.
20. Criminal conviction cannot be founded upon suspicion or the mere fact that a minor girl was temporarily missing from her residence. The prosecution must prove the essential ingredients of the charged offences through reliable evidence. In the present case, the evidence led by the prosecution itself establishes that the victim left her home on her own and was not kidnapped by anybody.
21. Consequently, the ingredients of Section 137(2) BNS are not established. Once the foundational offence itself fails, the aggravated offence under Section 140(3) BNS also necessarily fails. Since no substantive offence has been proved, the question of common intention under Section 3(5) BNS does not arise.

22. Upon a cumulative assessment of the entire evidence on record, this Court finds that the prosecution has failed to prove beyond reasonable doubt that the accused persons committed offences punishable under Sections 137(2), 140(3) and 3(5) BNS. Accordingly, the point for determination is answered in the negative.

Hence, it is **ORDERED**

that both charge-sheeted accused are found **not guilty** of the offences under Sections 137(2), 140(3) and 3(5) BNS. **They are** hereby acquitted under Section **271 (1)** of the BNSS.

The bail bonds of the accused shall remain in force for a period of six months.

A soft copy of this judgment shall be uploaded to the Case Information System (CIS), and a certified copy shall be forwarded to the District Magistrate, Purba Bardhaman, and the Secretary, District Legal Services Authority (DLSA), Purba Bardhaman, for due intimation to the victim and for necessary action.

Typed and corrected by me.

Judicial Magistrate,
Kalna, Purba Bardhaman
JO WB1370