

IN THE COURT OF ADDITIONAL SESSIONS JUDGE,
F. T. 1ST COURT, TAMLUK, PURBA MEDINIPUR

Present:- SHIB SHANKAR GHOSH
Addl. Sessions Judge,
Fast Track, 1st Court,
Tamluk, Purba Medinipur

[Date of Judgment:- 22nd April, 2026]

S.T. 5 (6) of 2023 (S.C. 32 of 2023)
(C.I.S No. SC 32 of 2023) [CNR:- WBEM 01000 486-2023

(Tamluk PS FIR No.397/2022, Dated 16.05.2022,
(U/ss. 363/365/366/368/34 of IPC)

Complainant	State of West Bengal
Represented by	Mr. Dilip Kumar Mitra
Accused	<u>Name with all particulars.</u> (A1)- Sabuj Samanta, Son of Uttam Samanta of Purbanukha, PS – Tamluk, Dist. Purba Medinipur. (A2) Uttam Samanta, Son of Krishnaprasad Samanta of Purbanukha, PS – Tamluk, Dist. Purba Medinipur. (A3) Nilima Nayek Samanta, Wife of Uttam Samanta of Purbanukha, PS – Tamluk, Dist. Purba Medinipur. (A4) Sukdeb Nayek, Son of Lt. Kshudiram Nayek of Mallickchak, P.S.- Nandakumar, Dist.- Purba Medinipur.

Date of offence	15.05.2022
Date of FIR	16.05.2022
Date of Charge sheet	30.06.2022
Date of Framing of Charges	12.06.2023
Date of commencement of Evidence	19.01.2024
Date on which Judgment is reserved	NA
Date of the Judgment	22.04.2026
Date of the Sentencing Order, if any	NA

Accused Details

Rank of the Accused	Name of 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 purpose of Section 428, Cr.P.C.
1.	Sabuj Samanta	Surrendered on 27.06. 2022	27.06.2022	U/ss. 363/365/366/368/34 IPC	Acquitted	NA	NA
2.	Uttam Samanta	Surrendered on 27.06. 2022	27.06.2022	U/ss. 363/365/366/368/34 IPC	Acquitted	NA	NA
3.	Nilima Nayek Samanta	Surrendered on 27.06. 2022	27.06.2022	U/ss. 363/365/366/368/34 IPC	Acquitted	NA	NA
4.	Sukdeb Nayek	19.05.2022	02.06.2022	U/ss. 363/365/366/368/34 IPC	Acquitted	NA	NA

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS
P.W. 1	XXXX	Complainant
P.W. 2	XXXX	Relative of complainant
P.W.3	XXXX	Victim girl
P.W.4	Goutam Maity	Independent witness
P.W.5	Sandhya Maity	Independent witness
P.W.6	XXXX	Father of complainant
P.W.7	XXXX	Mother of complainant
P.W.8	S.I Samir Aich	1 st IO of this case
P.W.9	Satyajit Chanak	2 nd IO of this case

C. Court witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS
CW	Nil	N.A.

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sl. No.	Exhibit Number	Description
1.	Exhibit 1	Written complaint
2	Exhibit 1/1	Endorsement
3.	Exhibit 2	Formal FIR
4.	Exhibit 3	Rough sketch map and index
5.	Exhibit 4	Seizure list dated 19.05.2022
6.	Exhibit 5	Zimmanama
7.	Exhibit 6	Seizure list dated 29.06.2022

LIST OF DEFENCE EXHIBITS

-	NA	NA
---	----	----

Material Objects:

Srl. No.	Material Object Number	Description
-	-	-

**In the Court of Addl. Sessions Judge,
FTC-I, Tamluk, Purba Medinipur**

Present:- **Shib Shankar Ghosh**

Addl. Sessions Judge, FTC-I,

Tamluk, Purba Medinipur

S.C. 32 of 2023

ST-5(6)2023

GR case No. 1368 of 2022

CNR-WBEM-0100486-2023

Sections:- 363/365/366/368/34 of IPC

STATE

-Vs-

- 1) Sabuj Samanta
- 2) Uttam Samanta
- 3) Nilima Nayek Samanta
- 4) Sukdeb Nayek

Mr. Dilip Kumar Mitra

-----Ld. PP in charge

Mr.Arijit Dinda

-----Ld. Lawyer for accused persons

Purba Medinipur, dated 22.04.2026

Judgement

Shib Shankar Ghosh, ASJ, FTC-I : - The instant case arose out of a complaint lodged by complainant with OC, Tamluk PS on 15.05.2022 against the accused persons Sabuj Samanta, Uttam Samanta and Nilima Nayek. Facts as couched in the complaint in

Contd...

nutshell are that on 15.05.2022 at 5:00 pm, minor daughter of complainant aged about 16 years went out of her house for going to her maternal uncle's house. Later, when complainant made a phone call to her brother's house, she was informed that her daughter had not gone there. Thereafter, complainant asked her relatives about her daughter but no one could give her any information about her whereabouts. She, thereafter, came to know from others that accused persons induced her daughter and took her somewhere and kept her therein. Complainant and her family members went to the house of the accused persons for knowing her whereabouts but they were driven out therefrom. They were also threatened with loss of life. As per apprehension of complainant, accused persons were planning to engage her daughter in prostitution. To get her daughter back and for bringing the accused to book, complainant lodged the complaint.

2. On the basis of said complaint, Tamluk P.S. Case No.397/2022 dated 16.05.2022 under sections 363/365/366/368 of Indian Penal Code, 1860 (In short, 'IPC') was started against the FIR named accused persons.

3. Investigation began and after completion of investigation, charge sheet being No.606 of 2022 dated 30.06.2022 was filed against the FIR named accused persons under sections 363/365/366/368 of IPC.

4. Cognizance was taken by Learned Chief Judicial Magistrate, Tamluk, Purba Medinipur under section 190(1)(b) of

Cr. PC. As the offence punishable under section 366 of IPC is exclusively triable by Court of Session, the case was committed to Learned Sessions Judge, Tamruk, Purba Medinipur by Learned Chief Judicial Magistrate, Tamruk, Purba Medinipur under section 209 of Cr. PC.

5. Cognizance was again taken by Learned Sessions Judge, Tamruk, Purba Medinipur under section 193 of Cr.PC. Thereafter, case was transferred to this Court for trial and disposal by Learned Sessions Judge, Tamruk, Purba Medinipur under section 194 of Cr. PC.

6. Charges were framed against the accused persons under sections 363/365/366/368/34 of IPC. Charges so framed were read over and explained to accused persons to which they individually pleaded their innocence and as such trial began.

7. During trial as many as nine witnesses were examined from the side of prosecution to prove the charges who are as follows :-

PW-1 – Complainant

PW-2 – Relative of complainant

PW-3 – Victim girl

PW-4 – Independent witness

PW-5 – Independent witness

PW-6 – Father of complainant

PW-7 – Mother of complainant

PW-8 – SI Samir Aich (1st IO of this case)

Contd...

PW-9 – Satyajit Chanak (2nd IO of this case)

8. **List of Exhibits :-**

Exhibit – 1 – Written complaint

Exhibit – 1/1 – Endorsement of OC, Tamluk PS on written complaint

Exhibit – 2 – Formal FIR

Exhibit – 3 – Rough Sketch Map and index.

Exhibit – 4 – Seizure list dated 19.05.2022

Exhibit –5 – Zimmanama

Exhibit – 6 – Seizure list dated 29.06.2022

9. After closure of evidence from the side of prosecution, incriminating materials found in the evidence of the prosecution were put to the accused persons individually and answers given by them are denial of the case of the prosecution. No witness was examined by the accused persons.

10. Argument was heard. Now Judgment.

11. **Points for consideration** :- Whether accused persons committed offences with which they have been charged or not.

12. **Decisions backed by reasons** :- Complainant deposed as P.W.1 who stated in her examination in chief that her daughter left house to go to her maternal uncle's house. Over phone they came to know that she did not go there. From local people they came to know that Sobuj Samanta and his maternal uncle

Contd...

kidnapped her daughter from Srirampur Bazar. They visited house of Sabuj Samanta and they attacked them and uttered filthy languages. They came to Tamluk PS and police personnel recovered her daughter. Police phoned maternal uncle of Sobuj Samanta and he brought her daughter to PS. In her cross examination, she stated that Srirampur Bazar is a busy place. She and three persons who are Gautam Maity, Madhabi Maity and Jhumari Maity went to the house of Sabuj Samanta.

12.1 Her evidence shows that her daughter went out of her house for going to the house of her brother but she did not go there and from local people she came to know that accused and his maternal uncle kidnapped her daughter from Shrirampur Bazar and she, Goutam Maity, Madhabi Maity and Jhumuri Maity went to the house of Sabuj Samanta and as they were attacked, they went to Tamluk PS and police phoned maternal uncle of Sabuj Samanta and he brought her daughter to PS.

12.2 P.W.2 being a relative stated in her examination in chief that VG left her house saying that she was going to her maternal uncle's house and in the evening she heard that VG did not go to her maternal uncle's house and when she could not be traced out, matter was reported to PS and thereafter, they came to know that accused Sabuj took the VG to the house of his maternal uncle. She did not know anything else. In her cross examination, she stated that whatever she stated was whatever she heard from others.

12.3 Evidence of P.W.2 is contrary to what P.W.1 stated. As per version of P.W.2, whatever was stated by her was whatever was heard by her meaning thereby that her version is hearsay. She even did not say from whom she heard about the incident. P.W.1 stated that she went to the house of Sabuj Samanta with P.W.2 which P.W.2 flatly denied. Her evidence indicates with clarity that she did not go anywhere with P.W.1; therefore, version of P.W.2 being hearsay in nature can not be believed. P.W.3 is VG who made two contradictory statements in her examination in chief. She on the first day of her examination in chief stated that on 15.05.2022 at 5 pm she was going to her maternal uncle's house and on the way, she met her classmate Sabuj Samanta at Srirampur and he requested her to go to the house of his maternal uncle but she vehemently disagreed to his proposal and by then his maternal uncle came and they forcibly took her to the house of said uncle by a motor cycle. However, on the second day of her examination in chief she made a somersault and stated that he did not go to the house of maternal uncle of Sabuj Samanta rather she went to her own maternal uncle. Importantly, prosecution did not declare her hostile and cross examine her. In her cross examination, she stated that Sabuj Samanta was her classmate, and out of suspicion, her mother lodged complaint. Therefore, version of VG is self contradictory. At one point, she stated that she had been forcibly taken by accused Sabuj and his maternal uncle on a motorcycle. However, at another point, she stated that she did not go to the house of Sabuj's maternal uncle; rather, she went to her own maternal uncle's house. She further stated that as Sabuj Samanta was her

Contd...

classmate, her mother, out of suspicion, lodged the complaint. Her version throws no lumen on the case of prosecution. Therefore, her version can not be said to be trustworthy.

12.4 P.W.3 who was named by P.W.1 to accompany her to the house of accused Sabuj Samanta feigned complete ignorance about the incident. P.W.5 being an another independent witness also could not say anything about the incident. P.W.6 and P.W.7 being parents of P.W.1 also did not speak a single word about the incident. What is surprising is that if anything of the sort had happened, P.W.6 and P.W.7 would have been aware of such incident but they simply stated that they knew nothing about the incident. The evidence of P.W. 8 and P.W. 9 is formal in nature, they being the investigating officers, and their testimony does not materially advance the case of the prosecution.

12.5 The evidence on record gives rise to a reasonable doubt in the mind of the Court as to the truthfulness of the prosecution case. It may be stated in this connection that VG made statement before learned Magistrate but prosecution did not try to bring said statement into evidence; however, even if said statement would have been brought on record, same would have been hardly of any effect in view of her startling version that she did not go to house of maternal uncle of accused Sabuj, rather she went to her maternal uncle's house. Therefore, the evidence adduced on record casts a serious doubt on the veracity of the prosecution case. It has been held time and again that suspicion, however grave it may be, cannot take the place of proof, and

Contd...

there is a large difference between something that “may be” proved and “will be proved”. In a criminal trial, suspicion no matter how strong it may be, cannot and must not be permitted to take place of proof. Here, mother of VG complained of kidnapping of her daughter by accused persons but she did not divulge the name from whom she came to know about said facts. Two of the three persons who she named as accompanying her to the house of accused Sabuj Samanta did not support her. Parents of complainant did not state anything about the incident. The other independent witness also spoke nothing about the incident. VG made contradictory statements as regards the incident in her evidence. The place where incident allegedly took place is a crowded place but no one of said place was examined to lend support to the alleged incident. Therefore, the prosecution case appears shrouded in doubt. Even otherwise in a case like the one in hand, prosecution has to establish prior inducement or active participation of the accused in forming the minor’s intention to leave the guardian’s keeping. Reliance in this regard may be had on a decision of Hon’ble Supreme Court reported in **S. Varadarajan v. State of Madras, AIR 1965 SC 942**. In view of the persisting doubt regarding the verity of the alleged incident, and the failure of the prosecution to prove the charges beyond reasonable doubt, this Court is of the cogitated view that accused persons are entitled to the benefit of doubt, in tandem with the salutary principles as unfurled herein above.

13. Hence, it is,

ORDERED

that the accused persons namely **Sabuj Samanta, Uttam Samanta, Nilima Nayek Samanta** and **Sukdeb Nayek** are found not guilty for the offences under sections 363/365/366/368/34 of IPC. They are consequently, acquitted from this case as per provision of section 235 Cr.PC. They are set at liberty. They are also discharged from their respective bail bonds and consequently, their bail bonds stand cancelled. Each one of them is to execute fresh bond of Rs. 1000/- with one surety subject to the satisfaction of learned CJM, Purba Medinipur as per provision of section 437A of Cr.PC corresponding to provision of section 481 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for their appearance before Hon'ble appellate Court in connection with any appeal or revision which may be preferred against judgement and order of this case and life of bond would remain valid for six months.

13.1 Any person coming within the definition of 'Victim' as laid down in section 2(wa) of Cr. PC corresponding to section 2(y) of Bharatiya Nagarik Suraksha Sanhita, 2023 and feeling aggrieved by the judgement and order has a right of appeal as envisaged under the proviso to section 372 of Cr. PC corresponding to section 413 of Bharatiya Nagarik Suraksha Sanhita, 2023 within the period of limitation as provided by Art. 114 of Limitation Act, 1963 and if necessary, can avail free legal aid in preferring such appeal. Reliance in this regard may be placed on the decision of Hon'ble High Court at Calcutta in **Sabitri Bhunya vs. The State**

Contd...

of West Bengal & Others (CRA 266 of 2020 With CRAN 1 of 2020).

13.2. Let a copy of this judgement be forwarded to District Magistrate, Purba Medinipur under section 365 of Cr.PC corresponding to section 406 of Bharatiya Nagarik Suraksha Sanhita, 2023 as well as Ld. Secretary, D.L.S.A., Purba Medinipur for information and necessary action.

Dic. & corr. by me

(Shib Shankar Ghosh)
Additional Sessions Judge,FTC-I
Tamluk, Purba Medinipur.
J.O CODE – WB00872.

(Shib Shankar Ghosh)
Additional Sessions Judge, FTC-I
Tamluk, Purba Medinipur
J.O CODE – WB00872