

IN THE COURT OF Chief Judicial Magistrate, Barpeta Present : Smti. Nilakshi Lahkar, A.J.S. (Date of judgment: 27.07.2026) G.R. Case No. 1303/2022 @ PRC No. 782/2022 (Corresponding to Barpeta P.S. Case No. 688/2022)		
COMPLAINANT :	State of Assam Name of complainant : Sakait Ali Ahmed	
REPRESENTED BY :	Mr. Gautam Ojah, Learned A.P.P.	
ACCUSED	Jahidul Islam (A1) S/O- Hamed Ali Vill - Bagudi P.S - Barpeta Dist - Barpeta, Assam	
REPRESENTED BY	Mr. Faijur Rahman, Ld. Defence Counsel	
Date of offence		03.05.2022
Date of FIR		09.07.2022
Date of Charge sheet		24.07.2022
Date of Charge framed		06.06.2023
Date of commencement of evidence		29.12.2023 18.03.2024, 05.04.2025, 10.01.2025 & 05.03.2025 04.06.2026

Date on which judgment reserved	13.07.2026
Date of Judgment	27.07.2026
Date of the Sentencing Order, if any	N.A.

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 Sec. 428 Cr.P.C.
A1	Jahidul Islam	13.07.2022	26.07.2022	365 of I.P.C.	Acquitted	N.A.	N.A.

J U D G M E N T

1. The case of the prosecution side, in brief, is that the victim “Y” (name not disclosed) is the minor daughter of the informant. On 03.05.2022 at around 08:00 AM when she went out for tuition and didn’t return back till evening. The informant came to know from sources that his daughter was kidnapped by the accused and he has kept her confined in an unknown place. When the informant enquired regarding the whereabouts of his daughter to the accused, the accused threatened him with

dire consequences. Hence, the case.

2. On receipt of the FIR, a case was registered being Barpeta PS Case no. 688/2022, u/s 365/34 of IPC and started investigation. After completion of investigation, the I.O. submitted charge sheet against accused, u/s 365/34 of IPC.

3. On appearance of the accused person (A1), copies of relevant documents were furnished to him u/s 207 of CrPC. On perusal of the materials on record and after hearing Learned Counsels for both sides, charge u/s 365 IPC was framed against the accused person. The charge on being read over and explained to the accused person (A1), to which he pleaded not guilty and claimed to be tried.

4. To prove its case, prosecution side adduced evidence of 6 (six) witnesses including 3 (three) Court witnesses. The accused person was examined under section 313 of Cr.PC, where he denied all allegations and declined to adduce evidence.

5. Point for determination :-

Whether the accused person (A1) on 13.05.2022 kidnapped informant's daughter namely "X" (name not disclosed) with intent to cause her to be secretly and wrongfully confined and thereby committed an offence punishable u/s 365 of IPC ?

DISCUSSION OF EVIDENCE, DECISION AND

REASONS THEREOF :

6. I have heard arguments advanced by both sides. Considered the contention raised on behalf of both sides and perused the evidence on record.

7. In support of the case, prosecution side has examined four witnesses and the informant and the victim are examined as court witnesses.

8. PW.1 Saleha Begum in her evidence has deposed that she knows the informant as he is her uncle. She also knows the accused person. She knows the victim of this case. The incident took place in the year 2022 during morning at about 06:00 am. She heard that the victim went for tuition and didn't return back home. She heard that the victim was being kidnapped by someone. Police didn't record her statement.

9. Cross-examination of PW.1 is hereby declined.

10. PW.2 Amina Begum in her evidence has deposed that she knows the informant as he is her grandfather. She couldn't recognise the accused. She knows the victim. She didn't know anything about the occurrence and have no idea about it.

11. Cross-examination of PW.2 is hereby declined.

12. PW.3 Jalaluddin in his evidence has deposed that he is the familiar with the informant as he is his

neighbor. He cannot recognize the accused person. He know Semina Yasmin. He didn't know about the occurrence. He didn't know what happened between the informant, victim and the accused person.

13. Cross-examination of PW.3 is hereby declined.

14. PW.4 Mintu Kalita in his evidence has deposed that on 09.07.2022 while he was posted at BARPETA P.S. as attached officer under Barpeta P.S. and it was the informant who lodged the ejahar on 05.07.2022. The O/C had entrusted him for enquiry and after doing the enquiry he submitted a report before the O/C BARPETA P.S. that a case may be registered under proper section of law and he had given a written prayer to the O/C to register a case and on 09.07.2022 the O/C had registered the case as Barpeta P.S. CASE NO. 688/2022 u/sec 365/34 of IPC and he was entrusted for investigation of this case by the O/C of Barpeta P.S. On 05.07.2022 he did the preliminary enquiry of this case. He recorded the statement of the witnesses. The victim was recovered and the statement of the victim was recorded u/sec 164 of CrPC and the victim was sent to Barpeta medical for her medical examination. The accused was arrested and produced before this court that the accused was involved in the commission of the offence. He also

seized the birth certificate during his investigation. He prepared the sketch map also. After completion of the investigation he submitted charge sheet against the accused person. EXT P1/PW4 is the sketch map, EXT P1(1)/PW4 is his signature. EXT P2/PW4 is the seizure list and EXT P2(1)/PW4 is his signature. EXT P3/PW4 is the charge sheet & EXT P3(1)/PW4 is his signature. EXT C1 is the ejahar and EXT C1(2)/PW4 is his signature in the ejahar.

15. During cross-examination of PW4 he stated that he didn't record the statement of the informant u/sec 161 of CrPC. The reason for same is not mentioned in the case diary. He started the preliminary investigation of this case without recording the statement of the informant. The date of occurrence is mentioned in the ejahar as 03.05.2022 and the ejahar was lodged on 05.07.2022. The informant didn't mention the reason behind the delay in the lodging of the ejahar. He didn't record the statement of the tuition tutor with whom the victim was undergoing her tuition classes. The victim went to Nagaon for her tuition classes. The victim didn't state the name of the tutor before him and because of the same he couldn't record his statement. One statement of the victim was recorded on 09.07.2022 by SI(P) SUSMITA BORA. CW1 (SEMINA YASMIN) stated before SI(P) SUSMITA BORA that "MOI BUHUT DIN

AGAR PORA BAGODI R JAHIDUL ISLAM OK BHAL PAI ASILU TAR LOGOT E BIYA HUWA ESSAH. ON 03.07.2022 TUITION AAHAR PISOT NIZ ESSA MOTEH MOI JAHIDUL OR USAROT GOISILU ETIAO MOI JAHIDUL OR LOGOT E JAM. TAR LOGOT BIYA HOM. MUR KOBOLOGIYA EMANAI.” CW1 (SEMINA YASMIN) didn’t stated before SI(P) SUSMITA BORA that the advocate instructed me to tell me whatever the Advocate told me to tell and I told her. He didn’t investigate in relation to the said vehicle which she had alleged to have taken her. He didn’t record the statement of Amjad Ali during his investigation. The place of occurrence is not shown in the sketch map.

16. CW.1 Sakait Ali Ahmed in his evidence has deposed that he is the informant and he couldn’t recognize the accused person. The incident took place on 03.07.2022, when her daughter suddenly disappeared and thereafter he lodged the case on 05.07.2022. The victim Samina Yasmin is his daughter. On 03.07.2022, his daughter was on her way to attend her tuition classes at about 08:00 am. When she didn’t return back from her tuition classes CW.1 searched her whereabouts but couldn’t find her till 05:00 pm. On the next day he came to know that Jahidul and Mahidul took her daughter. CW.1 contacted the family members of the accused persons and told them to return his daughter but the accused persons threatened him.

Finding no other alternative he went to the thana and lodged this case. On the next day his daughter was recovered by the police. The date mentioned in the ejahar is 03.05.2022 but it should be 03.07.2022 and he had already confronted his mistake before the I.O. Ext. C1/CW.1 is the ejahar and Ext. C1(1-2)/CW1 are his signatures.

17. During cross-examination he deposed that he had read the ejahar and there was mistake in the date mentioned. His daughter used to go to tuition with 3/4 girls and while returning home she used to come alone. He asked the tuition teacher about his daughter and the said teacher told him that the daughter of CW1 didn't go for tuition on that particular day. He didn't know that his daughter had a love affair with the accused Jahidul. When the informant asked his daughter about her love affair with the accused she denied the fact. Police recovered his daughter and she was taken to the thana. He didn't know if the police enquired about her or not. She was escorted by a lady police. The informant took her to home and again she was taken to the thana for recording her statement. When he asked his daughter regarding her missing she told him that she got disappeared from the Nagaon area and there are no houses nor any shops at the place of occurrence. The informant was informed by the brother of the accused i.e., Mahidul

that the victim was taken by the accused Jahidul. Informant told this to police. Police recorded his statement before the recovery of his daughter i.e., on the day of lodging of the ejahar. Rest of suggestions put forward are of total denial.

18. CW.2 Semina Yasmin i.e., the victim in her evidence has deposed that the informant is her father. She knows the accused Jahidul Islam. The incident took place on 03.07.2022. She went to attend tuition classes from Hah Chara to Nagaon and while she was on the way the accused came from the backside and threatened her to go with him and if she wouldn't he will upload some bad pictures in facebook. The accused also threatened her that it will affect her family if she wouldn't go with the accused. The accused took her in a vehicle but she didn't know where the accused took her and later on, took her to Dakhin par. The accused forced her to get married and at that time she was a minor. The accused also had sexual relationship with her forcefully. When the police brought the brother of the accused Mahidul, Mahidul called Jahidul and one Mintu Kalita Sir informed to bring her to the thana. She was not taken to the thana directly. The learned advocate of the accused told her to tell before the police that the accused forced her to get married and had also sexual intercourse with her and she told the same as per instructions.

She told that Mintu Sir didn't record her statement at the thana and when her father went to meet O/C for getting the case number at that time the informant came to know that the case was not registered and thereafter she went to lodge the case herself. She was taken to the medical on 09.07.2022 and one Susmita madam took her statement. She was taken to Court on that day but her statement was not recorded on that day before the Court. The family of the accused also threatened her after lodging the case.

19. During cross examination she told that she was alone when she went from Hah chara to Nagaon. She had once uploaded some photos with the accused and those were good photos. She told that she didn't know the accused. One Susmita Bora recorded her statement on 09.07.2022, when she was at the women cell and there were no other police officers. She was taken to the thana on 07.07.2022, and she was handed over to her father as she was having exams and thereafter she was taken to thana again on 09.07.2022 and once again she was handed over to her father. She was taken in a INDICA car. She didn't see the vehicle number, nor she could not tell for how many hours she was travelling. She was unconscious at that time as she was frightened. She gained senses on the same day in the evening but didn't remember the time.

There were two people inside the vehicle driver and Jahidul. There were people at Dakhin par but she didn't raise hulla as the accused had frightened her. The marriage took place in the presence of QAZI, she told the Qazi that the accused had forced her to get married with him. There were 2/3 persons at the time of marriage. The accused didn't allow her to do any hulla. She didn't know Mintu Kalita from earlier occasion. She confronted before the police that the advocate had instructed her but the police didn't record that. She was taken for medical examination. In the history of medical examination she told police that she was travelling in a traveller bus. Rest of suggestions put forward are of total denial.

20. CW.3 Dr. Renuka Rongpharpy in her evidence has deposed that on 09.07.2022, she was working as Associate Professor of Dept of Forensic Medicine, FAAMCH, Barpeta and on that day, she examined Semina Yeshmin, D/O- Sahayet Ali Ahmed. On Physical Examination, she had found:- (I) Identification marks: Black mole on right side of upper lip, (ii) Black mole on right side of lower lip. Hight: 152 CM, Weight 45 Kg, Chest girth as nipple level: 76 CM, Abdominal girth at navel level: 60 CM, General built & appearance: Average, Hairs: Axillary average as distribution, Breasts: Hemispherical, Soft to firm in consistency, nipple and ocular dwell oped and healthy, Puberty: class V, Menstruation:

Regular, duration 4 days, L.M.P. 12.06.2022, Mental condition: Nothing abnormality detected at the time of examination. Gait: Normal, Intelligence: Average, wearing garments and any suspected stains present: Intact no stains present, Bodily injuries: No detected. Genital Examination: Pubic hairs: 0.5-1 CM, non-matted and average in distribution, Vulva: healthy, Hymen: Old tears at 3, 9 o'clock position, Vagina: Accessed, cervix and uterus: per abdomen not palpable, fourchette and Perineum: healthy. In her opinion, No evidence of recent sexual intercourse detected at the time of examination. No evidence of injury detected on her body and private parts except the old hymenal tears. Ext.C2/CW.3 is the medical examination report of victim of alleged sexual offence and Ext. C2(1)/CW.3.

21. During her cross-examination she deposed that she did not mention in her report the father name of accused Jahidul Islam. Victim was not produced before her within 24 hours for which the injury in her private parts cannot ascertain properly.

22. The accused stands charged for the offence punishable under section 365 of the Indian Penal Code alleging that he kidnapped the victim from her way to tuition and thereafter took her to a

village known as Dakhin Paar in an Indica car with the intention of secretly and wrongfully confining her.

23. Befor appreciating the evidence on record, it is necessary to examine the essential ingrediants of the offence punishable under section 365 of the IPC. To bring home the guilt of an accused under the said provision, the prosecution must establish beyond all reasonable doubt that :

(i) the victim was kidnapped or abducted by the accused; and

(ii) such kidnapping or abduction was committed with the intention of causing the victim to be secretly and wrongfully confined.

24. Thus, mere proof of kidnapping or abduction is not by iteself sufficient. The prosecution must further establish that the act was accompanied by the intention to secretely and wrongfully confine the victim. Both these ingrediants must coexist and must be proved by cogent, reliable and convincing evidence.

25. Coming to the evidence on record, the victim has deposed that while she was proceeding to her tuition classes, the accused focibly took her away in an Indica car and

brought her to a village named Dakhin Paar. However, it has also come in her evidence that after reaching the said village, there were several persons present at the place. Surprisingly, despite the availability of independent persons, the victim neither raised any alarm nor sought any assistance from them. She also did not disclose to any of those persons that she had been kidnapped or wrongfully brought there against her will. The conduct of the victim, though not by itself decisive, assumes significance while appreciating the overall probabilities of the prosecution case and raises a reasonable doubt regarding the alleged occurrence.

26. It is further noticed that the prosecution has examined PW-1, PW-2 and PW-3. However, none of these witnesses has supported the prosecution story on the material aspects of the case. Their evidence does not corroborate the version of the victim regarding the alleged kidnapping or the alleged wrongful confinement. Thus, the prosecution case rests substantially upon the solitary testimony of the victim.

27. It is well settled that conviction can be based on the sole testimony of the victim if such testimony is found to be wholly reliable,

trustworthy and inspires confidence. However, where the evidence suffers from materials infirmities or is surrounded by circumstances creating doubt, the Court must seek assurance from independent corroborative evidence before recording a finding of guilt.

28. In the present case, the testimony of the victim does not receive any corroboration from the independent witnesses examined by the prosecution. On the contrary, PW-1, PW-2 and PW-3 have failed to support the prosecution case. No convincing evidence has been brought on record to establish the alleged kidnapping in the manner narrated by the victim. There is also no reliable evidence to prove that the accused intended to secretly and wrongfully confine her, which is an indispensable ingredient of section 365 IPC.

29. The settled principle of criminal jurisprudence is that the prosecution must prove its case beyond reasonable doubt and the burden never shifts upon the accused. Suspicion, however strong, cannot take the place of legal proof. Where two views are possible on the evidence on record, the view favourable to the accused must necessarily be adopted.

30. Having carefully scrutinized the entire

evidence and the circumstances of the case, this Court is of the considered opinion that the prosecution has failed to establish the essential ingredients of the offence punishable under section 365 of IPC beyond reasonable doubt. The evidence on record is insufficient to safely conclude that the accused kidnapped the victim with the intention of secretly and wrongfully confining her. Consequently, the accused is entitled to the benefit of doubt.

ORDER

31. Accordingly, the accused is acquitted of the charge under section 365 of the IPC. His bail bond shall remain in force for the period of 6 (six) months as per the provision of section 437 A of Cr.PC.

32. Given under my hand and seal of this court on this the 27th day of July, 2026.

Sd/-

Smti Nilakshi Lahkar
Chief Judicial Magistrate
Barpeta

APPENDIX

LIST OF PROSECUTION/ DEFENCE/ COURT WITNESS

A. Prosecution :

RANK	NAME	NATURE OF EVIDENCE
PW1	Saleha Begum	Other witness
PW2	Amina begum	Other witness
PW3	Jalaluddin	Other witness
PW4	Mintu Kalita	Other witness

B. Defence Witness, if any :

RANK	NAME	NATURE OF EVIDENCE
NIL	NIL	NIL

C. Court Witness, if any :

RANK	NAME	NATURE OF EVIDENCE
CW1	Sakait Ali Ahmed	Informant
CW2	"X" (name not disclosed)	Other witness
CW3	Dr. Renuka Rongpharpy	Medical Officer

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution :

Sr. No.	Exhibit Number	Description
1	Ext. P1/PW4	Sketch map

2	Ext.P1(1)/PW4	Signature of PW-4
3	Ext. P2/PW4	Seizure list
4	Ext.P2(1)/PW4	Signature of PW-4
5	Ext. P3/PW4	Charge-Sheet
6	Ext.P3(1)/PW4	Signature of PW-4
7	Ext.C1(2)/PW4	Signature of PW4

B. Defence :

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
1	Ext. C1/CW1	FIR
2	Ext.C1(1-2)/CW1	Signatures of CW-1

D. Material Objects :

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

Sd/-

Smti Nilakshi Lahkar
Chief Judicial Magistrate
Barpeta