

Sessions Case No. 189 (T)/2022
(State of Assam Vs. Aghnu Mahali @ Bhoko)

ASTN010017352022



**IN THE COURT OF ADDITIONAL DISTRICT &
SESSIONS JUDGE (FTC-2) :: TINSUKIA**

Present: **Smti. Mamta Bhadani, AJS,
Addl. District & Sessions
Judge (FTC-2),
Tinsukia**

(Date of Judgment: 13/08/2026)

(Sessions Case No. 189 (T) of 2022)
(Baghjan P.S. Case No. 18/2022)
(U/s. 366/343/376(1) of IPC)

COMPLAINANT :	STATE OF ASSAM
REPRESENTED BY	Sri B.J. Kakoty, Learned Addl. P.P.
ACCUSED	1. Sri Aghnu Mahali @ Aghnu Khan @ Bhoko (A1) S/O. Sri Bhadra Mahali R/O. Deamoolie T.E. Palong Line P.S. Baghjan District : Tinsukia (Assam)
REPRESENTED BY	Sri Munna Kr. Singh Learned Advocate


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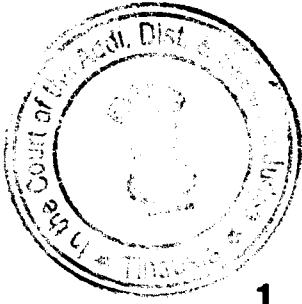
Date of Offence	08/05/2022
Date of FIR	13/05/2022
Date of Charge sheet	24/06/2022
Date of Framing of Charges	15/02/2023
Date of commencement of evidence	08/05/2025
Date on which judgment is reserved	NIL
Date of Judgment	13/08/2026
Date of the Sentencing Order, if any	-

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	Sri Aghnu Mahali @ Bhoko	On pre-arrest bail	On pre-arrest bail	u/s. 366/343 /376(1) IPC	Acquitted	-	-


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J U D G M E N T

1. This case was committed to the Court of Hon'ble Sessions Judge, Tinsukia, by learned JMFC, Tinsukia, on 06/12/2022 and Hon'ble Sessions Judge, Tinsukia, has transferred this case to this Court for disposal on 22/12/2022.
2. The prosecution's case as outlined in the FIR is that on 12/05/2022 informant Miss "X" lodged an FIR before the O.C. of Baghjan P.S. alleging inter alia that on 08/05/2022 in the evening at about 8:00 p.m. while she was studying in her home, then the accused Aghnu Mahali @ Bhoko called her over phone and asked her to come out of her house. Then the accused pushed her to ride on his bike forcefully when she came out from her house and took her to Mohanbari Airport and told her that he already paid the ticket and they will go to Kolkata by plain. Additionally, the informant claimed that at Kolkata the accused raped her for three days. {The name of the victim is not disclosed to protect her identity as per section 228A of the Indian Penal Code (72 of BNSS, 2023)}.
3. Accordingly, Baghjan P.S. Case No. 18/2022 under Section 366/343/376(1) IPC was registered and investigated. Upon completion of the investigation, the


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Investigating Officer submitted a charge sheet against accused Aghnu Mahali @ Bhoko under sections 366/343/376(1) IPC.



4. After considering the arguments presented by both parties regarding the charges and reviewing the pertinent documents, my learned predecessor in office formulated formal charges against accused Aghnu Mahali @ Bhoko under sections 366/343/376(1) IPC on 13/02/2023. The charges were read and explained to the accused, who entered a plea of not guilty and requested to stand trial.
5. During the trial, the prosecution adduced evidence of twelve witnesses including the I.O. The defense plea is of total denial and did not present any evidence.
6. I have carefully considered the arguments from both parties and have reviewed the evidence available on record.

POINTS FOR DETERMINATION

7. The points for determination in this case are as follows:
 - I. **Whether the accused on 08.05.2022 at 8 P.M at Diyamuli Tea Estate, Chaibacha Line under Baghjan PS, had kidnapped the informant/victim with intent that she will be forced or seduced to illicit intercourse, and thereby committed an offence punishable under section 366 of the IPC?**
 - II. **Whether the accused on the same date, time and place after kidnapping the informant/victim took**


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her to Kolkata and wrongfully confined her for three days in a Hotel and thereby committed an offence punishable under section 343 of the IPC?

- III. Whether the accused on or around the same time and place by confining the informant/victim in a hotel in Kolkata, forcefully committed rape on her for three consecutive days and thereby committed an offence punishable under section 376(1) of the IPC?

DISCUSSION OF EVIDENCE, DECISION AND REASONS THEREOF:

8. In the present case from the evidence on record it is seen that the prosecution side had examined as many as 12 witnesses to discharge its initial burden to prove the charges brought against the accused but when the testimonies of these witnesses are carefully gone through then it is found that none of them except the victim had firsthand knowledge of what had happened. Hence, it can be claimed that the testimony of the victim is vital in deciding on the case of prosecution as it is discovered to be hinge on her testimony from the beginning to the end. With this factual position, let me first examine the evidence of the victim to assess her evidence and see to what extent it can be relied upon and what probative value could be attributed to it.
9. To begin with, the victim claims that the accused after


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calling her came outside her house and compelled her to sit on pillion of his motorcycle. If her claim is accepted then the victim obviously had way out and she could have chosen not to comply with the accused if she genuinely was unwilling. To be more precise even if I assume for a moment that there was no family member of her at home then also there would have been the neighbours around and had there been any resistance on her part it would definitely not have been possible for accused to discretely take a full grown up girl on his motorcycle without a fuss.

- 10.** The victim further claimed that the accused took her to a hotel in Tinsukia and subsequently Mohanbari Airport and if it was so then the victim rode accused's motorcycle for not one or half kilometre but it was 60 kilometres or more. The prosecution has not claimed that the victim was under any kind of constant fear, force or coercion and in that situation it becomes difficult to believe that despite the unwillingness or absence of consent from the side of the victim, the accused succeeded in driving her to a long distant place and the victim despite being on the pillion side of the motorcycle did not make any effort to get out of the clutches of the accused.
- 11.** As regards the way of commuting, the victim claims to have gone to Kolkata along with the accused by flight


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from Mohanbari Airport, Dibrugarh and after 2 days, she had returned by the same route. If I believe this part of her story as it is the first thing which comes in mind is the security arrangement and check at airport. More precisely, it cannot be assumed in any circumstance that the accused was all around with the victim and she had no chance at all to report the offense to anyone around. Because before one enters into the airport for boarding a personal body check is must and it is always separate for male and female. If the victim was not willing to go with the accused then she had sufficient time to report the matter at least to the security personnel at airport but she did not.

- 12.** Regarding the accusation that the accused took the victim to a hotel in Kolkata and there again raped her for two consecutive days. Despite the allegation of the victim that they stayed in a hotel there but from the beginning to end she could not tell the location or name of the hotel. The investigating officer also stated that he had not gone to Kolkata to look into the incident that took place there. The accused denied taking the victim with him. The investigating officer certainly had the option to check the to and fro commute records with the airport authority to know their timing of travel and since they both had mobiles the investigating officer had an option to find the


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location of the accused and the victim using their call details but the record clearly shows that nothing of that sort was done. To be more precise, though victim was undisputedly a major girl when incident took place and tale she described in the FIR seemed to be not very much convincing but no effort was made to acquire the most reliable evidence to find out the actual truth. It seems that the investigating agency proceeded on the assumption that the allegations and assertions of the victim were, by themselves, enough to establish the prosecution case, without keeping in mind the most basic principle governing criminal investigation, that the object of investigation was not to construct or strengthen a case for the victim on the basis of the allegations contained in the FIR, but to subject those allegations to an impartial, fair and lawful scrutiny with a view to discovering the truth and ascertaining the actual facts and circumstances of the occurrence.

- 13.** Having regard to the nature and manner of investigation conducted in the present case and the conspicuously perfunctory and lacklustre approach adopted by the investigating agency, it becomes imperative to reiterate the very object, purpose and solemn duty underlying a police investigation. To begin with, the investigating agency cannot begin an investigation with a pre-conceived conclusion and then


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Dibrugarh

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collect material to support the version with which the investigation began. Such an approach would alter the process of investigation from a mechanism of discovery of truth into a mere tool of confirmation of an accusation. If the FIR or the first statement of the victim is seen as the final and conclusive proof of the charges against the accused or the prosecution case, then the statutory requirement of investigation would serve little useful purpose. It would be not only contrary to the very object and purpose of investigation, but also contrary to the fundamental requirement of a fair and impartial criminal trial, apart from exposing the accused to the grave prejudice based on untested allegation. It is established proposition of law that though an FIR is the first step to set criminal process in motion but it is not evidence of the guilt of the accused. Similarly, a statement recorded during investigation is material collected during investigation in accused's absence and has to be tested according to law of evidence during trial. The investigating agency is therefore duty bound to hold a fair, impartial and complete investigation, with the aim of establishing the truth and not only of collecting material to support the initial complaint. A lacklustre or one-sided investigation not only undermines the constitutional right of the accused to a fair trial, but



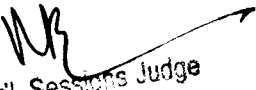

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Bongaigaon

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may even lead to unnecessary and protracted proceedings, thereby overburdening the criminal justice system at the cost of the valuable judicial time.

- 14.** Additionally, the victim during her cross-examination plainly admitted that she lodged the FIR under the pressure of family and friends and thus this set of her testimony further strengthens the conclusion that if anything at all happened between the accused and the victim, then it was consensual and there was no force or coercion.
- 15.** Situated thus, I am of the considered opinion that the testimony of the victim, in the present case, is not of such a nature as to inspire confidence or to warrant its acceptance at face value without corroboration so as to sustain conviction of the accused for the charges he has been made to face in the present case. It is well settled that the testimony of the victim stands on a higher pedestal and, when found to be of sterling quality, can by itself form the basis of a conviction. However, in the present case, the testimony of the victim does not attain that degree of credibility and reliability so as to safely base a conviction solely upon it in the absence of corroborative evidence.
- 16.** Consequently, giving benefit of doubt to the accused he is held not guilty for charge offences.
- 17.** To sum up, I find that there is no evidence on record


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Tinsukia



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against the accused based on which guilt of the accused for commission of the offence of rape can be proved.

- 18.** Situated thus, the accused is held not guilty for charge under sections 366/343/376(1) of the IPC for want of any incriminating evidence against any of him and he is acquitted of the charge accordingly.
- 19.** Bail bonds executed by accused surety shall remain extended for a period of 6 months from today and cancelled thereafter in compliance of Section 437A Cr.P.C.
- 20.** The seized article, if any, be destroyed in due course of time.
- 21.** Send a copy of this judgment to the District Magistrate, Tinsukia, as required u/s. 365 Cr.P.C.
- 22.** This judgment is pronounced in the open court and given under my hand and seal of this court on this 13th day of August, 2026.

Dictated & corrected by me.


Addl. District & Sessions
Judge (FTC-2),
Tinsukia. Addl. Sessions Judge
Tinsukia


(**Smt. M. Bhadani**),
Addl. District & Sessions
Judge (FTC-2),
Tinsukia. Addl. Sessions Judge
Tinsukia

Typed and transcribed by:

H. Baruah,

Steno-I



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APPENDIX

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)
PW1	Smt. "X"	Informant/victim
PW2	Smt. Dulari Shero	Relative of the victim
PW3	Sri Bidyadhar Tanti	Independent witness
PW4	Sri Sujit Tanti	Hearsay witness
PW5	Sri "A"	Father of the victim
PW6	Smt. Pushpanjali Nayak	Independent witness
PW7	Dr. Bicki Sonar	Medical Officer
PW8	Sri Anjal Kishan	Seizure witness
PW9	Sri Amir Kondho	Independent witness
PW10	Smt. Arati Tanti	Independent witness
PW11	Sri Arjun Bhumij	Independent witness
PW12	Inspector Dilip Kr. Borah	Investigating Officer


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Tiruchirappalli

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B. Defence Witnesses, if any: NIL

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
-	-	-
-	-	-

C. Court Witnesses, if any : NIL

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
-	-	-

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	P.Ext. 1	Ejaha
2	P.Ext. 2	Statement of victim before Magistrate
3	P.Ext. 3	Medical report
4	P.Ext. 4	Laboratory report
5	P.Ext. 5	Radiological report
6	P.Ext. 6	Seizure list
7	P.Ext. 7	Sketch map of PO
8	P.Ext. 8	Charge sheet
9	P.Ext. 9	Another seizure list

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B. Defence : NIL

Sr. No.	Exhibit Number	Description
-	-	-

C. Court Exhibits: NIL

Sr. No.	Exhibit Number	Description
-	-	-

D. Material Objects:

Sr. No.	Exhibit Number	Description
-	-	-


(Smt. M. Bhadani),
Addl. District & Sessions
Judge (FTC-2), Judge
Tinsukia.