

**IN THE COURT OF ASSISTANT SESSIONS JUDGE,
MORIGAON :::::::::: ASSAM.**

PRESENT : Ms. M. Hussain, AJS,
Asstt. Sessions Judge, Morigaon.

JUDGMENT IN SESSIONS CASE NO. 56/2019

U/S 371 IPC

[Arose out of G.R. Case No. 2477/2018
[Committed by learned Addl. CJM Morigaon]

State of Assam

- Vs -

Smti. Anti Dewri

W/O Late Lalit Dewri,
Village – No.1, Bangalbori,
P.S. Jagiroad,
District – Morigaon (Assam).

...Accused person.

APPEARANCE:

Advocate for the State : **Mr. N. A. Choudhury, Addl P.P.**

- And -

Advocate for the accused : **Mr. U. C. Roy.**

Date of framing charge : 9.08.2019.

Date of recording Evidence on : 6.09.19, 24.09.19 & 21.10.19.

Date of hearing Argument on : 22.11.2019.

Date of delivering the Judgment on : 29.11.2019.

JUDGMENT

FACTS & GENESIS OF TRIAL:

1. Peculiarity in this case is that informant is public at large of Bangalbori. As many as 92 persons have put signatures as informant.

The short specific of prosecution case shows that accused person Smti. Anti Dewri is leading immoral life with one person by dint of her marriage solemnized stealthily against norms of village people. Moreover, accused person has given marriage of her 3(three) daughters in Delhi behind the back of the present

informant's society without performing social rite. Hence, this case for such unsocial activities.

2. On the basis of said ejahar, Jagiroad Police Station registered a case being Jagiroad P.S. Case No. 376/18, U/S 371 IPC and investigation started. On completion of investigation, the I/O submitted charge-sheet against accused person Smti. Anti Dewri **U/S 371** IPC to stand up trial for said offence.

3. The case being exclusively triable by Hon'ble Court of Sessions, was committed by learned Addl. CJM, Morigaon after complying the provision of Section-207 Cr.PC as per mandate of Section-209 Cr.PC. Upon committal of the case, Hon'ble Sessions Judge, was pleased to make over the case to this Court for trial and disposal.

4. As per direction accused person Smti. Anti Dewri appeared before this Court.

5. Learned Addl. P.P Mr. N.A. Choudhury opened up the case by describing the charge brought against the accused person and also stated by what evidence he proposed to prove the guilt. Heard both sides on point of charge. On consideration of materials placed, that is the case record, case diary etc, this Court opined that there is ground for presuming that accused person committed offence **U/S 371 IPC**. Accordingly formal charge framed in writing. Charge explained to accused person, to which he pleaded not guilty and claimed for trial.

6. The prosecution during the course of trial, examined altogether 5 (five) witness. Also this Court examined one C.W. After closure of the prosecution evidence, at the instance of prosecution, the accused person was examined **U/S 313 Cr.PC**. The defence case is of total denial of the prosecution allegation. The accused person expressed reluctance to adduce defence evidence.

7. I have heard **Mr. N. A. Choudhury**, learned Addl. P.P. and **Mr. U. C. Roy**, learned counsel for the accused person. Also carefully perused the materials on record.

POINT FOR DETERMINATION :

- i. Whether accused person on or before filing the ejahar, habitually exported, removed, bought, sold, trafficked or dealt with slaves and did same with victim and whether accused person thereby committed an offence punishable – **U/S 371 IPC ?**

THE DECISION & THE REASONS THEREOF :

- 8. PW-1**, Smti. Lishimai Dewri deposed that accused woman were habitual in selling others girl. In one instance, she sold one Sumi to some one in Delhi, while she was without any parents/kith and kin. She also deposed that there was village mel in this regard. In cross-examination, PW-1 deposed that they filed this case after about one year of the occurrence. She deposed that she did not meet Sumi at any point of time. She did not see the actual occurrence. She deposed that she heard that accused is involved in trade involving woman. She denied to suggestion that just oust accused woman from her land, they have filed this false case.
- 9. PW-2**, Smti. Pallabi Dewri deposed that accused woman has without sanctioned of society has given marriage her first daughter twice and two daughters once. That even though accused woman's husband died, she lived with another man and wear vermilion. In cross-examination, PW-2 deposed that accused defied their and society's mandate, so they filed this case. Now she is *ekgharia*.
- 10. PW-3**, Smti. Lilimai @ Nilimai Knowor deposed that informant Lichimai is accused woman's sister. Due to quarrel between them the case has been filed. Accused woman has given her daughters in marriage without informing members of society. PW-3's cross-examination did not aid to prosecution case.
- 11. PW-4**, Shri Subudh Debnath deposed that being Govt. Gaonburah he proceeded to Bangalbori and came to know that accused woman was living with one man and follows some course of action against norms of society. His cross-examination declined by defence side.
- 12. PW-5**, Smti. Bina Dewri identified both informant and accused woman in Court in her evidence. She deposed that accused has spoiled village atmosphere and so village people has filed this case. In cross-examination, PW-5 deposed that accused woman's youngest daughter Dibya Dewri returned from Delhi with her husband and village people assisted financially in getting a ticket to Delhi for her husband and he leaving his wife at accused woman's place left there from.
- 13. CW-1**, Smti. Dibya Dewri deposed that accused is her mother. Their village people in greed for their immovable property has filed this case. She had

divorced her husband as because he used to drink and beat her. She stated that she has deposed before learned Magistrate and has endorsed her thumb impression.

ANALYSIS

14. In this case accused person is facing trial U/S 371 IPC. The ingredients of offence U/S-371 IPC are –

- (1) Accused imported, or exported, or removed, or bought, or sold, or trafficked or dealt in slaves ;
- (2) He is in the habit of doing so.

15. On Perusal of evidence it appears PW-1 even though deposed that accused-woman is habitual in selling girls and that once one Sumi was victim, whom accused sold out in Delhi, but as she failed to stand the test of cross-examination, her said evidence lost credibility. She deposed in cross-examination that she did not meet Sumi at any point of time. It also surfaced vide cross-examination of PW-1 that accused woman is her sister-in-law (Jaa). Moreover, she did not witnesses the actual occurrence as deposed by her in cross-examination. I found nothing in evidence of PW-1 which aid prosecution case. Per-se evidence of PW-2, it appears that after death of accused woman's husband, she now wear vermilion and lived with another man. Moreover, from evidence of PW-2, also it surfaced that she also belongs to accused woman's relation. Evidence in record from PWs is replete with that accused woman defied societies mandate and she has been rendered *ekgharia*. But what is our societies mandate, which accused has allegedly defied, did not precisely come to surface in evidence. Accused being a major woman. After death of her husband lived with another man and wear vermilion which offence she committed, I failed to fathom out.

16. PW-3, a villager from accused woman's village also deposed that PW-1 is the sister of accused. Her evidence also did not aid prosecution case at all. Like wise, evidence of PW-4 and that of PW-5 also did not aid prosecution case. CW-1 is also one of the daughter's of accused. She deposed that accused is her mother and cause for filing this case is greed for accused side's immovable properties.

17. Having considered entire evidence in case record, I am of opinion that there is total dearth of evidence that accused person at any single instance imported, or exported, or removed, or bought, or sold, or trafficked or dealt in slaves. There is no convincing evidence in case record which shows that accused in any point of time

dealt in slaves. Even, the ejahar in the case also failed to make out any offence under IPC, if construed properly. Ejahar is not a substantive evidence, that is the foundation of prosecution case. What appears to me is that there is possibility that relatives of accused person have plotted this story against her only to grab her immovable properties. Evidence in record shows that PW-1 and PW-2 are relatives of accused, who have been instrumental in filing this case is against accused-woman for no violation on her part. I am embolden by evidence of CW-1 also. She also kept silence totally and did not incriminate accused person.

18. Based on above discussion and analysis of evidence on record, it appears, this Court culminate that accused person is innocent. Prosecution has blatantly failed to prove the case **U/S 371 IPC** against the accused beyond all reasonable doubt.

RESULT / O R D E R

The accused woman stands acquitted **U/S 371 IPC**.

Her bail bond stands extended to six months w.e.f today.

Let the record of G.R. Case No. 2477/2018 be sent back along with a copy of this judgment and order.

Judgment pronounced in open Court and given under my hand and seal of this Court on 29th day of November, 2019 at Morigaon.

Typed to my dictation and corrected by me.

Asstt. Sessions Judge, Morigaon.

Asstt. Sessions Judge, Morigaon.

APPENDIX

1. The prosecution has examined the following witnesses :-

PW – 1 = is Smti. Lishimai Dewri (informant)
PW – 2 = is Smti. Pallabi Dewri.
PW – 3 = is Smti. Lilimai @ Nilimai Knowor.
PW – 4 = is Shri Subudh Debnath.
PW – 5 = is Smti. Bina Dewri.

The prosecution side Exhibits :

Nil.

3. Defence side has examined witness..

Nil.

4. Defence side Exhibits :

Nil.

5. Court witness & Exhibits.

CW -1 = Smti. Ddibya Dewri.

Asstt. Sessions Judge, Morigaon