

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM

**G.R. CASE NO.2653/2017
(PRC No.1281/2018)**

State

Vs.

Md Nazir Hussain

Son of Md. Suher Ali @ Sheher Ali

**Resident of village: Ram Mandir (Na-
khola Grant), P.S.- Jagiroad,**

District- Morigaon, Assam

Present: Sri N.K. Das, AJS
Chief Judicial Magistrate, Morigaon

For the state: Mrs. A. Kakati, Addl. P.P.

For the defense: Musstt. S. Khatun Mukter, Advocate

Charged framed: u/s 363 of IPC

Evidence recorded on: 19-10-2019

Argument heard on: 19-10-2019

Judgment delivered on: 21-10-2019

JUDGMENT

1. The prosecution case in brief is that one Md. Taznur Ali lodged an ejahar in the Jagiroad police station against the accused Md. Nazir Hussain alleging therein that on 15-10-2017, at early dawn, the aforementioned accused enticed Musstt. Taslima Nasrin, aged about 15 years and who is the daughter of the informant, making false promises and took her away from the house of the informant and kept her hidden at unknown place. Therefore, the informant prayed for taking necessary steps against the accused person and also for recovery of his daughter.

2. The ejahar was received in the Jagiroad police station on 15-10-2017 and a Jagiroad police station case No.407/2017 under section 363 of IPC was registered and one sub inspector of police Sri Utpal Kr. Nath was assigned to investigate the case by the Officer-in-Charge of the said police station. On completion of

investigation police submitted charge sheet against the accused Md. Nazir Hussain under section 363 of IPC showing him as an absconder.

3. On appearance before court copies of all relevant documents were furnished to the accused person under section 207 CrPC. After hearing both sides, after perusing case record and on prima facie materials of offence under section 363 IPC being found against the above mentioned accused person, formal charge under section 363 IPC was framed, which was read over and explained to the aforementioned accused person to which he pleaded not guilty and claimed to be tried.

4. Prosecution in support of its case examined 2 (two) witnesses namely Musstt. Taslima Nasrin, who is the alleged victim of the case, as PW-1 and one Musstt. Pobita Begum, who is the mother of the alleged victim, as PW-2. The statement recorded under section 164 CrPC is exhibited as exhibit-1 and the signatures of the alleged victim are proved as exhibit-1(1) and exhibit-1(2). Examination of the accused person under section 313 CrPC was dispensed with for lack of incriminating materials. Defense side refused to adduce any evidence.

5. I have heard the arguments of Smti. Alakananda Kakati, learned APP as well as Musstt. Shajeda Khatun Mukter, learned defence counsel, perused the case record and considered the same. The following point for determination is formulated:

- i. Whether the accused person, on or about 15-10-2017 at early dawn at village Pachim Nagaon (Kahikuchi), under Jagiroad police station, kidnapped Musstt. Taslima Nasrin and thereby committed an offence punishable under section 363 IPC?

Discussion of evidence, decision and reasons therefor:

6. Both the witnesses in their depositions have not supported the case and did not implicate the accused with the offence alleged. The alleged victim as PW-1 and her mother as PW-2 have deposed that the accused was her husband but they have ended the marriage amicably through divorce. Both the witnesses also stated that Md. Taznur Ali, who is the informant of the case, died on 2-5-2018. It is also stated by both the witnesses that the matter has already been amicably settled amongst

them at the intervention of the local villagers and their family members. According to both the witnesses, the case was filed due to misunderstanding and they no longer want to proceed with the case.

7. It is seen that there is absolutely nothing in the evidence of the witnesses against the accused person to implicate him with the alleged offence. The key witnesses did not implicate the accused person with the alleged offence. In view of the deposition of the witnesses the prosecution side did not proceed further to summon and examine the remaining witnesses as their evidence is not likely to improve the prosecution case and closed the prosecution evidence and perhaps rightly so.

8. For the aforesaid reasons and discussion the point for determination is answered in the negative.

9. The prosecution has failed to prove the case against the accused person. As such, the accused person is acquitted of the offence under section 363 IPC alleged against him. He be set at liberty forthwith. His bail bond is extended for a period of six months from today in view of section 437A CrPC.

10. The judgment is pronounced in open court and given under my hand and seal on this 21st October, 2019 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

APPENDIX

(A) PROSECUTION EXHIBITS:

Ext.-1: Statement recorded u/s 164 CrPC

Ext.-1(1) & 1(2): Signatures of Musstt. Taslima Nasrin

(B) DEFENCE EXHIBITS:

None

(C) EXHIBITS PRODUCED BY WITNESSES:

None

(D) COURT EXHIBITS:

None

(E) PROSECUTION WITNESSES:

P.W.-1: Musstt. Taslima Nasrin

P.W.-2: Musstt. Pobita Begum

(F) DEFENCE WITNESSES:

None

(G) COURT WITNESSES:

None

Chief Judicial Magistrate, Morigaon