

**HIGH COURT OF TRIPURA
AGARTALA
CRL. A NO.8 OF 2022**

Sri Suman Sen and anr.

..... Appellant(s)

Vs.

The State of Tripura

..... Respondent(s)

For the Petitioner(s) : Mr. S. Bhattacharjee, Advocate.

For the Respondent(s) : Mr. S. Ghosh, Addl. P.P.

Date of hearing and delivery of
Judgment & Order : 02.05.2023.

Whether fit for reporting : YES/NO.

HON'BLE MR JUSTICE T. AMARNATH GOUD

JUDGMENT AND ORDER(ORAL)

This present criminal appeal has been filed under Section 374(2) of the Criminal Procedure Code, 1973, against the Judgment dated, 02.05.2022, passed by the learned Sessions Judge, Dhalai Judicial District, Ambassa in case No.ST(Type-II) 6 OF 2016, convicting the appellants herein under Section 341/34 of IPC and sentenced to suffer SI for one month for the commission of offence Under Section 341/34 of IPC and a fine of Rs.500/- & in default in payment SI for further 5 days and convicting the appellants under Section 366/34 of IPC and sentenced to suffer R.I. for 3(three) years for

commission of offence under Section 366/34 of IPC and a fine of Rs.5,000/- & in default of payment of fine R.I. for further 6 months.

2. The brief fact of the prosecution case is that one Sri Prabir Ranjan Biswas, S/o Lt. Chintamani Biswas, lodged an FIR to the Officer-in-Charge of Nepalitilla Police Station to the effect, that on 05.12.2015, in the morning, the daughter of the complainant left her house for the house of her tutor to take tuition. When she reached near the house of one Jitendra Malakar of Dhurbashakhala, at that time at about 07.00 hours, accused Sri Janardhan Biswas, S/o Lt. Dharendra Biswas of the locality of the complainant along with 2/3 other persons abducted her by a white Alto Car by gagging her mouth and taken away with a view to marry her and they also outraged her modesty while enticing away.

3. Based on the aforesaid complaint, the Officer-in-charge of Nepalitilal Police Station registered Nepalitilla Police Station Case No.2015 NTL 006, dated 05.12.2015 for the commission of offences punishable under Section 341/366/34 of IPC against the accused persons namely Janardhan Biswas with 2/3 other persons.

4. After completion of the investigation, the I.O. submitted charge-sheet against Janardhan Biswas, Suman Sen

i.e., the Appellant No.1 herein and Litan Ghosh @ Santosh for the commission of offence punishable under Section 341/366/34 of IPC and against Arup Adhikari @ Baptu i.e., the appellant No.2 herein and Bikram Roy for the commission of offence punishable under 341/366 of IPC read with Section 1982/196/177 of the Motor Vehicles Act.

5. Upon receipt of the charge sheet the learned Sub-Divisional Judicial Magistrate, Longtarai Valley took cognizance of the offence against the accused person. Thereafter, the charge was framed under Section 341/366/34 of IPC against all the accused person i.e (i) Janardhan Biswas, (ii) Bikram Roy, (iii) Litan Ghosh @ Santosh, (iv) Arup Adhikari@ Baptu & (v) Suman Sen and under Section 177/192/196 of Motor Vehicles Act against the Arup Adhikari @ Baptu & Bikram Roy. Accordingly, the contents of the charges were read over and explained to the appellants in Bengali to which the appellants pleaded not guilty and claimed to be tried.

6. In the course of the Trial, the prosecution adduced oral as well as documentary evidence. 23 witnesses were produced by the prosecution, who were examined and cross-examined. Thereafter, the appellants were examined under Section 313 of Cr.P.C. in the course of which the appellants pleaded not guilty.

7. After hearing, the learned Court delivered Judgment on 02.05.2022. The learned Court convicted the appellants as stated herein above.

8. Being aggrieved and dissatisfied with the impugned judgment dated 02.05.2022, passed by the learned Sessions Judge, Dhalai Judicial District, Ambassa, in case No.ST(Type-II)6 of 2016, the appellants herein preferred this present appeal under Section 374(2) of the Criminal Procedure Code, 1973 against the Judgment dated 02.05.2022 and to suspend the operation of the impugned conviction and sentence rendered against the appellants, vide the impugned judgment dated 02.05.2022.

9. Heard Mr. S. Bhattacharjee, learned counsel appearing for the appellants as well as Mr. S. Ghosh, learned Addl. P.P. appearing for the respondent.

10. It is represented in the Bar that the father of the victim Prabir Ranjan Biswas, lodged FIR specifically against Janardhan Biswas, S/o Dhirendra Biswas & 2/3 others, and not against the appellants and Janardhan Biswas, S/o- Lt. Dhirendra Biswas, is the principal accused and he is absconding and both the victim and the principal accused are Major.

11. Heard both sides and perused the evidence on record.

12. It is seen from the record that the appellants herein are not the principal accused, and they had only assisted the principal accused and it cannot be believed that they supported in abducting the said victim. Even according to the statement of the victim girl, she got into the Car and thereafter she was waiting there for some time. *"In view of the same, it cannot be said that the appellants participated in the said crime"*. Both the victim girl and the prime accused are major and in relation and the appellants who are known person and having friendly relationship have acted without any ill will. Hence the case against the appellants herein has not been proved beyond reasonable doubt.

13. With the above observation and direction, this present appeal stands allowed and thus disposed of. As a sequel stay if any stands vacated. Pending application if any also stands closed.

JUDGE