



Serial No. 14
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA No. 6 of 2024

Date of Decision: 12.06.2024

Shri. Habizur Rohman son of Maham Ali
Resident of Teporpara, P.S ampati,
South West Garo Hills Meghalaya

.....Petitioner

-Versus-

1. State of Meghalaya
Represented by the Learned Public Prosecutor
2. Shri. Ohet M. Marak son of (L) Jangson G. Momin, resident of
Rongdu Rongtit, P.S. Rongjeng, East Garo Hills District,
Meghalaya

.....Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. L.N. Areng, Adv.
Mr. S.A. Sheikh, Adv.

For the Respondent(s) : Mr. R. Gurung, GA with
Mr. J. Thabah, GA

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| i) | Whether approved for reporting in
Law journals etc.: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |



JUDGEMENT & ORDER (ORAL)

1. Heard Mr. L.N. Areng, learned counsel for the petitioner who has submitted that pursuant to an FIR lodged on 20.10.2015 by the respondent No. 2 wherein information was given to the police that his minor daughter was found missing in the morning of 01.03.2015 and the alleged kidnapper is one Md. Abbas Ali who was staying at their house and who is a contractor by profession doing certain electrical works in the area.

2. The learned counsel has submitted that the notice issued upon the respondent No. 2 has been duly affected. In this regard an affidavit-of-service has been filed however the respondent No. 2 has failed to appear before this Court today. It is therefore prayed that this matter may proceed ex-parte against the said respondent No. 2. Accordingly, this matter shall proceed ex-parte against the respondent No. 2.

3. It is also the narration of the informant that in due course information was received by the family members through phone calls from the alleged kidnapper that is, Md. Abbas Ali that their minor girl was sold to a person from Rajasthan for a consideration of ₹ 2,00,000/- (rupees two lakh) and was eventually married off to one person by the name Debu Singh.

4. It is also the allegation in the FIR that two persons namely, Gaiom and one Rophit who was later identified as Rofiqul Islam, who is the petitioner herein that they are working along with Md. Abbas Ali and they have lured their minor daughter to go with them to Rajasthan where she was eventually sold off to be married to the said person. Accordingly, on receipt of such information, the police had registered the case as Rongjeng



P.S. Case No. 31(10) of 2015 under Section 363/366A/372 IPC read with Section 5(C)(ii) of the Immoral Trafficking (P) Act and Section 5(g)(1)/6 of the POCSO Act. In course of investigation, the Investigating Officer (I/O) has examined a number of witnesses and has eventually filed his charge sheet.

5. In his charge sheet, the brief facts of the case have been narrated to indicate in not many words that the minor victim daughter of the informant was lured by two persons, the petitioner being one of such persons and taken to Rajasthan and was sold off for an amount of ₹ 2,00,000/- (rupees two lakh). However in between, the two persons who have taken her to Rajasthan had also sexually assaulted the minor victim girl on a number of occasions and had even sodomised her. This was revealed by the survivor herself when she was finally located and was brought to her home town. Accordingly, four accused persons were arrested in connection with the case, two of them have since been released on bail and two including the accused herein are still in custody.

6. The learned counsel for the petitioner has submitted that the ground upon which this petition is preferred for the accused Rofiquil Islam to be enlarged on bail is that since all the two main accused have been released on bail, therefore parity has to be extended as far as the accused person is concerned. The learned counsel has also submitted that on perusal of the statement of the alleged survivor made under Section 164 on two occasions, would show that there are contradictions in such statements as far as the presence of the accused person in question is concerned.

7. The next limb of argument of the learned counsel is that the accused



person in question has now been in custody for about one year and also being a resident of Assam, there is no likelihood that he would intimidate the witnesses or tamper with the evidence. It is, therefore, prayed that the accused person Shri. Rofiquel Islam may be enlarged on bail with any conditions that this Court may deem fit and proper to impose.

8. Mr. R. Gurung, learned GA appearing for the State respondent has vehemently opposed the prayer made mainly on the ground that the nature of the case is such that it would shocked the conscience of the Court or any normal person for that matter wherein by the own admission of the survivor she was subjected to sexual assault and was sold and married off to one person Shri. Debu Singh. In the process, not only her physical person but even her mental state of mind is affected. Under such circumstances, it would not be proper for the Court to allow the accused person in question to be enlarged on bail given the fact that his involvement in the whole affair has been clearly proved. It is, therefore, prayed that this petition may be dismissed as devoid of merits.

9. This Court on consideration of the submission made and on perusal of the petition in hand including the statement of the survivor as well as the brief narration of the facts and circumstances filed by the I/O, without repetition of the facts as indicated therein would agree that the case is one which is very serious in nature. In fact, if proved to be true, the manner in which the minor was subjected to sexual assault and degradation of her personality, the Court or even the society at large would not condone such action by the accused persons involved including the accused person in question.



10. It is also the submission of the parties that the stage of the case is for recording of evidence and the deposition of the survivor is to be recorded today that is, 12.06.2024.

11. Be that as it may, under the circumstances, this Court is not inclined to allow the prayer made in this petition.

12. Petition is accordingly dismissed and disposed of. No costs.

Judge

Meghalaya
12.06.2024

TIPRILYNTI
KHARKONGOR

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