

**HIGH COURT OF TRIPURA
AGARTALA
CRL.A(J) NO.12 OF 2024**

Md. Kabir Hussain

..... Appellant(s)

Versus

The State of Tripura.

.....Respondent(s)

For the Appellant(s) : Ms. R. Purukayastha, Advocate.

For the Respondent(s) : Mr. Raju Datta, Public Prosecutor.

Date of hearing and delivery of
Judgment & Order : 01/07/2025.

Whether fit for reporting : NO.

**HON'BLE JUSTICE DR. T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT
J U D G M E N T & O R D E R (O R A L)**

(DR.T. AMARNATH GOUD,J)

This appeal has been filed under Section 374 of the Cr. P.C. against the impugned judgment of conviction and sentence dated 15.07.2020, passed by the learned Special Judge (POCSO), North Tripura, Dharmanagar, in Case No. Special (POCSO) 06 of 2019, whereby and whereunder the appellant has been convicted under Sections 366-A/376(1) of IPC and Section 4 of the POCSO Act, and has been sentenced to undergo R.I. for 10 years under Section 366-A of IPC and R.I. for life with a fine of Rs. 10,000/- under Section 376(1) of IPC, and in default of payment of fine, to suffer R.I. for one year.

2. The brief facts of the case are that on 22.09.2015 at about 12:00 hours, the appellant forcibly enticed the victim to his house by an auto-rickshaw, confined her in his house, and threatened the victim and her parents to marry her to the appellant.

3. Upon receipt of the complaint, the O/C of Churaibari P.S. registered the case vide No. 2018/CRB/051 under Sections 366-A/376(1) of IPC and Section 4 of the POCSO Act. On completion of investigation, the investigating officer submitted a charge sheet against the appellant under Sections 366-A/376(1) of IPC and Section 4 of the POCSO Act. During the trial, the prosecution examined as many as 15 witnesses to prove the charge against the appellant. On closure of the prosecution evidence, the appellant was examined under Section 313 Cr. P.C., wherein he strongly denied the allegations made against him but chose not to adduce any defence evidence.

4. After hearing the arguments from both sides, the learned Court below, by the impugned judgment of conviction and sentence dated 15.07.2020, convicted the appellant as stated hereinabove.

5. Being highly aggrieved and dissatisfied with the impugned judgment of conviction and sentence dated 15.07.2020, the appellant has preferred this appeal to set aside the impugned judgment and order of conviction.

6. Heard Ms. R. Purukayastha, learned counsel appearing as Legal Aid Counsel for the convict-appellant, and Mr. R. Datta, learned Public Prosecutor, appearing for the State-respondent.

7. Ms. Purukayastha, learned counsel for the appellant, submits that the FIR in connection with the present case was filed three years after the incident. The accused took the girl away, and thereafter, they were married according to Muslim rites and rituals in the presence of relatives from both sides. The marriage took place in the house of the girl's uncle. Learned counsel further submits that the age of the girl was not proved beyond reasonable doubt.

In support of her argument, learned counsel relied upon the judgment passed by this Court dated 15.01.2021 in ***Crl.(J) No. 42 of 2023*** titled ***Matilal Sarkar vs. The State of Tripura***.

8. On the other hand, learned Public Prosecutor appearing for the State-respondent submits that the judgment and order of conviction passed by the Court below is just and proper and requires no interference.

9. Heard and perused the evidence on record.

10. Having considered the submissions advanced by Ms. Purukayastha, learned counsel for the appellant, and upon perusal of the records, including the delay of three years in lodging the FIR and the circumstances under which the appellant and the alleged victim entered into marriage according to Muslim rites in the presence of relatives from both sides, this Court is of the considered view that the benefit of doubt ought to be extended to the appellant. Further, it is submitted at the Bar by the learned Public Prosecutor that the girl has already married someone else a year after the incident.

11. Accordingly, in view of the above, this present appeal stands allowed and the impugned conviction and sentence passed by the learned Trial Court are hereby set aside. The appellant is acquitted of all the charges levelled against him. The appellant shall be released forthwith, if not wanted in connection with any other case.

12. With the above observations and directions, the present appeal stands disposed of. As a sequel, any stay granted stands vacated. Pending application(s), if any, also stand(s) closed.

B. PALIT, J

DR. T. AMARNATH GOUD, J

suhanjit

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