

ASLK030028802023

**APPENDIX-12****IN THE COURT OF CHIEF JUDICIAL MAGISTRATE
LAKHIMPUR, NORTH LAKHIMPUR****Present: Smti. Kingkini Borah, AJS
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur, Assam****(Date of Judgment: 19-08-2025)****(G.R. Case No. 582/2023)(PRC 1553/2023)
North Lakhimpur P.S. Case No. 232/2023**

COMPLAINANT	STATE OF ASSAM
REPRESENTED BY	Smti. Ajanta Sarmah, Addl. P.P.
ACCUSED	1. Sri Ranjit Das Son of Sri Babul Das Vill:- Tamulghuli Gaon P.S: Gormur District : Majuli, Assam (A1)
REPRESENTED BY	Mr. Lakhyajit Deuri, Advocate

APPENDIX-13

Date of offence	15.06.2023
Date of FIR	16.06.2023
Date of Charge Sheet	30.06.2023
Date of Framing of Charges	14.09.2023
Date of commencement of evidence	25.10.2023
Date on which judgment is reserved	Nil
Date of Judgment	19.08.2025
Date of the Sentencing Order, if any	

Accused Details

Rank of the Accused	Name of Accused	Date of Arrest	Date Release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec. 428 Cr.P.C.
A1	Sri Ranjit Das	18.06.2023	03.08.2023	Sec. 365 IPC	Acquitted	Nil	46 days

J U D G M E N T

1. The brief matrix of the prosecution case is that Sri Bipul Das on 16.06.2023 had lodged an ejahar before the Officer In-charge of North Lakhimpur Police Station, alleging inter alia that on 15.06.2023 at about 7:00 PM, the accused person kidnapped his minor daughter who is aged about 14 years was reading in Class-VIII, from his house. Hence, this case.

2. The Officer-in-charge of North Lakhimpur Police Station on receipt of the ejahar registered a case vide North Lakhimpur PS Case No. 232/2023 under section 365 of IPC. The investigating officer, after completing the investigation, submitted charge sheet under section 365 of IPC against the accused person, Sri Ranjit Das to stand trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offence under section 365 of IPC was taken as per section 190(1)(b) of the Code of Criminal Procedure. Necessary copies were furnished to the accused persons as per section 207 CrPC after his appearance before the Court. After considering the materials on record and hearing both the sides, the charge was framed against the accused u/s 365 IPC and the particulars of offence u/s 365 IPC is read over and explained to the accused person, to which he pleaded not guilty and claimed to be tried.

POINT FOR DETERMINATION:

4. The points which are required to be determined for a just decision of this case are as follows:

(a) Whether the accused person, on 15.06.2023 at about 7:00 OM in the evening time at village Romomichuk under North Lakhimpur Police Station had kidnapped (or abducted) one Smti Panchami Das, student of Class VIII, aged about 14 years i.e. the minor daughter of the informant Sri Bipul Das with the intent to cause Smti Panchami Das to be secretly and wrongfully confined, and thereby committed an offence punishable u/s 365 of IPC?

5. In this case, eight witnesses were examined, including the informant as PW-1, the victim as PW-3 and the I.O as PW-8.

6. After closure of the prosecution evidence, the statement of the accused person under section 313 of CrPC was recorded. The defence plea is of total denial and the defence side declined to adduce evidence in defence.

7. Both the sides advanced their respective arguments in this case.

DISCUSSION, DECISION AND REASONS THEREOF:

8. In this case, PW-1 Sri Bipul Das, lodged the ejarah on 16.06.2023 against the accused Ranjit Das stating that on 15.06.2023 at about 7:00 PM, while he and his wife were not at home his daughter i.e. PW-3 who is aged about 14 years was kidnapped by the accused person and after searching for her everywhere they came to know that the accused had kidnapped his daughter. The police case was registered u/s 365 IPC and charge sheet was submitted under the same section. The prosecution examined eight witnesses including the I.O. PW-1 Bipul Das was the informant in this case and he stated in his evidence in chief

that about 5 months back on the day of the incident at about 7:00 PM, when he returned to his house after marketing his wife informed him that their daughter Panchami i.e. PW-3 was missing. PW-1 started searching for her but he came to know that the accused Ranjit Das had taken away his daughter. So the next day, PW-1 came to the North Lakhimpur Police Station and lodged the ejahar. After three days, he got custody of his daughter from the court, police had recovered his daughter from a village where she was staying with the accused in a house.

9. In his cross-examination PW-1 stated that he had not written the ejahar himself and he did not know the contents of the ejahar. He denied that the accused often visited his house as he was his son Deep Das's friend. He also denied the suggestion that his daughter i.e. PW-3 used to address the accused as 'Dada' because he was his son's friend. PW-1 again stated that he did not know if his daughter had a friend called Manab Basumatary i.e. PW-5 and she had asked the accused person to take her to the house of Manab Basumatary. PW-1 also stated that he knew that his daughter had stayed in the house of Manab Basumatary for two days and on suspicion he gave the case against the accused thinking that his daughter had eloped with him.

10. The said Manab Basumatary was examined as PW-5 and in his examination in chief he stated that he knew the informant of the case. He also knew the victim Panchami Das as well as the accused. According to PW-5 the accused Ranjit Das, the brother of the victim and PW-5 worked together as electricians. About one

year back, one day, the victim visited his house alone and told them that she came to one of her friend's house, which was near their house and so she also paid them a visit. PW-5 then goes on to say that as it was late in the evening, so his wife asked her to spend the night in their house. Then on the next day, during afternoon, police came to their house and took her away with them. PW-5 also added that police came and asked him whether this was the house of Manab Basumatary and he replied in the positive. The police searched for the girl and finding her in their house took her along with them. PW-6 Smti Jamuna Basumatary who is the mother of PW-5 and PW-7 Sri Dhaniram Basumatary who is the father of PW-5 have corroborated this statement of PW5.

11. On the other hand, PW-2 who is the mother of victim deposed that on 15.06.2023, she had sent her daughter to a nearby shop to bring some household items but after some times, when she did not return from the shop she went in search of her. At that time, PW-2 heard that the accused person had eloped her daughter. On that day, her daughter did not come back to their house. So the next day, they went to North Lakhimpur Police Station and informed the matter to the police. On 17.06.2017 at about 7:00 PM, the police personnel of North Lakhimpur Police Station informed them over phone that they had recovered her daughter along with the accused from Bodhakora. After three days, PW-2 brought her daughter from the Thana.

12. In her cross-examination PW-2 denied that the accused and her son Deep Das are friends or that her son had another friend named Manab Basumatary. She also denied that her daughter had asked her son to take her to the house of Manab Basumatary as guest but her son refused as he had some other work and asked her daughter to go with the accused person. She also denied the suggestion that her daughter left the house in a Tomtom the accused one of her friends was waiting for her in the house of Manab Basumatary i.e. PW-5.

13. PW-3 Miss Panchami Das is the victim. In her evidence she stated that on 15.06.2023 at about 7:30 PM, her mother sent her to a nearby shop. At that time, she met the accused person on way and since she knew him she spoke to him and he questioned her whether she had come to the shop. After that PW-3 did not know how or why but she landed up with the accused on his bike and on the next day, she found herself in some unknown place and when she asked the address of the place the accused told her that she was at Bodhakora. In the meantime, her parents recovered her from Bodhakora along with the accused person and brought her to the Thana. Police then informed her parents and they came to the Thana and from there she was brought to the court and her statement was recorded. PW-3 also added that at present she was unable to attend her school as the accused person and his family members threatened to assault her if she attend school and therefore her parents are scared to send her to school. On being

question by the court as to whether she had informed the police about the matter she stated that this being not been done.

14. In her cross-examination PW-3 denied that her brother Deep Das is a friend of the accused person and as such the accused used to frequently visit their house. She also denied that she knew any person named Manab Basumatary. She also denied that her brother Deep Das, the accused Ranjit Das and Manab Basumatary were good friends. She also denied that Manab Basumatary visited their house frequently as he was her brother's friend. Again, she denied that on the day of incident she was adamant to go to the house of Manab Basumatary/PW5 as one of her friends was waiting his house. She denied that her brother Deep Das asked her to go along with accused Ranjit Das to the house of Manab Basumatary/PW5. She again denied that since she was unable to go to the house of the Manab Basumatary/PW5 late in the evening, therefore she left her house and went to Manab Basumatary's house on her own. She denied that since she was missing from her house and the accused person was known to her family members and because her brother had told her to go along with him to the house of Manab Basumatary/PW5, so out of suspicion, her parents gave a case against the accused person. PW-3 denied that she had stated before the Magistrate, that she had love affair with the accused or that she had fled on her own will. However, on perusal of the 164 Cr.PC statement it is seen that PW-3 had categorically stated that she had eloped with accused Ranjit Das and gone to Bodhanora where she stayed in the house of Manab

Basumatary/PW5 for two days along with the accused Ranjit Das. She also stated that she had love affairs with accused Ranjit Das. In her 164 Cr.PC statement PW-3 stated that police brought them from Bodhakora and she had willingly eloped with the accused person.

15. **Section 365 IPC** deals with kidnapping or abducting with intent secretly and wrongfully to confine person. Kidnapping is defined in section 359 IPC and consists of two kinds:- kidnapping from India and kidnapping from lawful guardianship. In this case, the nature of kidnapping is kidnapping from lawful guardianship which is defined in section 361 IPC and reads as follows:- Whoever takes or entices any minor under sixteen years of age if a male, or under eighteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Explanation:- The words "lawful guardian" in this section include any person lawfully entrusted with the care or custody of such minor or other person.

16. In this case, from the statement of PW-1, PW-2, PW-3 and PW-5 it is seen that the victim was about 14 years of age on the date of occurrence. Furthermore, in the 164 Cr.PC statement of the victim also her age is recorded as 15 years.

17. PW-8 SI (P) Dhurba Saikia, the I.O in this case stated that he seized the school certificate of the victim vide seizure list which is exhibited as P-3/PW4. Although, the certificate which has been

produced is of the school certificate of Gorhoga Balika Madhya Engraji Vidyalaya. But from that certificate it can be seen that on the time of the incident the victim was aged about 14/15 years. Although, in his written argument the defence has taken plea regarding the age of the victim being not proved and referring to Section 94(2) of the J.J Act, but it can be stated that section 94(2) of the J.J Act governs the age determination procedure with respect to child in conflict with law but no such statutory procedure is there in case of minor victim. During cross-examination the defence has not cross examined any of the witnesses including the I.O regarding the age of the victim. Moreover, from the seizure list it is seen that one school certificate proving the age of the victim had been seized in the case. Therefore, if we consider the victim to be a minor then her consent is immaterial in this case. On the other hand, non-production of the original documents in this case heavily hits the prosecution case as it is seen that the document to prove the age was a Photostat copy.

18. The principle that when two views are possible on the evidence- one pointing to the guilt of the accused and the other to their innocence- the view favorable to the accused should be adopted is well established in Indian Criminal Law. This plea is crucial in ensuring that the accused receives of fair trial and is protected under the presumption of innocence. This principle was upheld in **State of Uttar Pradesh Vs Nandu Viswakarma(2009)**. The same has been reiterated by the

Hon'ble Gauhati High Court in **Lalramthanga Vs State of Mizoram- Gauhati (2022)**.

19. In this case, a photocopy of school certificate is found in the record. Generally, a Photostat of school certificate is considered secondary evidence and may be admissible in court in specific circumstances, but it is not as strong as the original document. To be admitted, the party presenting Photostat must prove why the original is unavailable example- lost, destroyed or in the possession of the other party. Furthermore, the authenticity of the Photostat copy must be established which means that it needs to be shown that it accurately reflects the original. The Hon'ble Punjab and Haryana High Court in **Gurucharan Kaur Chakal Vs Nirvair Singh** and others decided on 6th November, 2013 stated that thus, a Photostat copy of a document can be produced as evidence only when it is alleged and proved that the original was in existence and is lost, destroyed or in possession of the opposite party who failed to produce it or in any other circumstance mentioned in Section 65 of the Act. These foundational facts, however, are to be proved by leading cogent evidence. As regards the questions whether Photostat copy of a document comes within the meaning definition of that 'secondary evidence' as contained in section 63 of the Act, there cannot be an absolute answer because every Photostat copy may not be accurate. For this purpose the probative value of Photostat copy has to be proved individually.

20. In this case, the prosecution did not make any attempt to prove the Photostat copy of the school certificate to be admitted as

secondary evidence by bringing in the circumstance required by the law for such evidence to be admitted in Court.

21. Thus, from appreciating the evidence laid down in this case, it is seen that the prosecution was not able to establish the guilt of the accused person and no incriminating materials, whatsoever was found against him.

22. Hence, in conclusion, I find that the offence, u/s 365 IPC has not been established against the accused person, Sri Ranjit Das beyond reasonable doubt and he is entitled to the benefit of doubt in this case and he is found not guilty and as such he is acquitted from the said offences and is set at liberty.

Bail bond of the accused person is extended for further 6(six) months from today.

Let a copy of this judgment be sent to the District Magistrate.

The judgment is delivered and operative part of the same is pronounced in the open court on this the 19th day of August, 2025.

Sd/-

(Smti. Kingkini Borah)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Dictated & corrected by me-

Sd/-

(Smti. Kingkini Borah)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Transcribed & typed by-
Rinki Roy, Stenographer

Contd. Appendix

APPENDIX – 14**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES****A. Prosecution:**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Sri Bipul Das	Informant
PW2	Smti Sabitri Das	Other witness
PW3	Miss Panchami Das	Victim
PW4	Sri Rupen Ch. Das	Other witness
PW5	Sri ManabBasumatary	Other witness
PW6	Smti JamunaBasumatary	Other witness
PW7	Sri DhaniramBasumatary	Other witness
PW8	SI (P) Dhurba Saikia	Police witness

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1	Nil	Nil
DW2	Nil	Nil

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
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CW1	Nil	Nil
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LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Exhibit P-1/PW1	FIR
2	Exhibit P-2/PW3	Statement of PW3
3	Exhibit P-3/PW4	Seizure list
4	Exhibit P-4/PW8	Sketch map
5	Exhibit P-5/PW8	Charge-sheet

B. Defence:

Sr. No.	Exhibit Number	Description
1	Exhibit D-1/DW-1	Nil
2	Exhibit D-2/DW-2	Nil

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
1	Exhibit C-1/CW-1	Nil
2	Exhibit C-2/CW-2	Nil

D. Material Objects:

Sr. No.	Exhibit Number	Description
1	MO1	Nil
2	MO2	Nil

Sd/-

(Smti. Kingkini Borah)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur