

**IN THE COURT OF JUDICIAL MAGISTRATE 1<sup>ST</sup> CLASS,  
LAKHIMPUR, NORTH LAKHIMPUR.**

**GR CASE NO.1293/2015**  
**U/S 120B/409/406/420 IPC**

**PRESENT:**

**SMT. SWEETY BHUYAN**

Judicial Magistrate 1<sup>st</sup> Class  
Lakhimpur, North Lakhimpur.

**PARTIES:**

STATE OF ASSAM

Vs

1. SRI BAPUJI PEGU
2. SRI MUNINDRA SONOWAL
3. SRI THANESWAR SONOWAL

..... **ACCUSED PERSONS**

**Appearance:**

For the State .....: MR. JANGKI DOLEY

For the accused persons .....: MRS. M.D. GOHAIN BORUAH  
& MR. PULAK GOGOI

Date of Evidences .....: 16.05.2018, 04.07.2018,  
18.08.2018, 12.10.2018,  
29.03.2019, 01.11.2019

Date of Argument .....: 06.03.2020

Date of Judgment .....: 17.03.2020

**JUDGMENT**

- 1.** The accused persons, namely, **Sri Bapuji Pegu, Sri Munindra Sonowal and Sri Thaneswar Sonowal**, all are resident of the District of Lakhimpur, here in this case have been put to trial to answer the charges for the offence Punishable under section 120B/409/406/420 of the Indian Penal Code.
- 2.** The brief facts of the prosecution case is that the accused Thaneswar Sonowal is the President of the Gagaldubi Borkheliya Pathar, Parichalana Samiti and for the year 2015 for the farmers 109 bags of Kothia grains were allotted in the name of the said samiti, but the said accused sold the bags of grains to Sri Munindra Sonowal, who is the resident of the same village and while he was selling, he was caught red handed. Hence, the case and the same was registered as Boginadi Police Station Case No.61/2015 under Sections 120(B)/420/406 IPC against Sri Thaneswar Sonowal named in the ejahar. The I.O submitted Charge Sheet against the accused Sri Bapuji Pegu, Sri Munindra Sonowal and Sri Thaneswar Sonowal under Sections 120B/420/406 of IPC. The accused persons took bail from the Court and copies have been furnished to them u/s 207 CrPC.
- 3.** After perusing CR, formal charges u/s 120B/409/406/420 IPC were framed by my Learned Predecessor, and thereafter, read over and explained to the accused persons, namely, Sri Bapuji Pegu, Sri Munindra Sonowal and Sri Thaneswar Sonowal, to which they pleaded not guilty and claimed to be tried.

**4.** In support of the case, the prosecution has adduced 12 PWs. The statement of the accused persons were recorded under Section 313 Cr.P.C. and they stated that all the allegations are false against them and denied to adduce the evidence in their support.

**5.** After perusing the case record and hearing both sides the following points of determination are framed:

- (i) Whether the accused Sri Bapuji Pegu, prior to 07.07.2015 agreed with his co-accused Sri Thaneswar Sonowal and Sri Munindra Sonowal, to commit an illegal act, that is misappropriating the 109 bags of rice seeds, which were entrusted to him for distribution among cultivators, and in pursuance of his illegal act, he sold the rice seeds to his co-accused Sri Munindra Sonowal, and thereby committed an offence punishable under section **120(B)** of the Indian Penal Code?

AND

Whether the accused Sri Thaneswar Sonowal and Sri Munindra Sonowal, prior to 07.07.2015 agreed with their co-accused Sri Bapuji Pegu, to commit an illegal act, that is misappropriating the 109 bags of rice seeds, which were entrusted to them for distribution among cultivators, and in pursuance of their illegal act, they sold the rice seeds to the co-accused Sri Munindra Sonowal, and thereby committed an offence punishable under section **120(B)** of the Indian Penal Code?

- (ii) Whether the accused Sri Bapuji Pegu being an employee of the Agriculture Department, was entrusted by the government with distribution of 109 bags of rice seeds among the cultivators, but

he had committed criminal breach of trust by misappropriating and dishonestly disposing of the aforementioned rice seed, prior to 07.07.2015 in violation of the procedure by which such trust was to be discharged and thereby committed an offence punishable under section **409** of the Indian Penal Code?

AND

Whether the accused Sri Thaneswar Sonowal and Sri Munindra Sonowal were entrusted by the government with distribution of 109 bags of rice seeds among the cultivators, but they had committed criminal breach of trust by misappropriating and dishonestly disposing of the aforementioned rice seed, prior to 07.07.2015 in violation of the procedure by which such trust was to be discharged and thereby committed an offence punishable under section **406** of the Indian Penal Code?

- (iii) Whether the accused Sri Bapuji Pegu, being an employee of the Agriculture Department, was entrusted by the government with distribution of 109 bags of rice seeds among the cultivators, but he had cheated the cultivators and the government, by dishonestly selling the rice seeds to his co-accused prior to 07.07.2015, and thereby committed an offence punishable under Section **420** of the Indian Penal Code?

AND

Whether the accused Sri Thaneswar Sonowal and Sri Munindra Sonowal, were entrusted by the government with distribution of 109 bags of rice seeds among the cultivators, but they had cheated the cultivators and the government, by dishonestly

selling the rice seeds to their co-accused prior to 07.07.2015, and thereby committed an offence punishable under Section **420** of the Indian Penal Code?

**Decisions and Reasons for decision:**

- 6.** I have heard the argument from both sides.
- 7.** Both the first points for determination are decided together as they are inter-related: ***Whether the accused Sri Bapuji Pegu, prior to 07.07.2015 agreed with his co-accused Sri Thaneswar Sonowal and Sri Munindra Sonowal, to commit an illegal act, that is misappropriating the 109 bags of rice seeds, which were entrusted to him for distribution among cultivators, and in pursuance of his illegal act, he sold the rice seeds to his co-accused Sri Munindra Sonowal, and thereby committed an offence punishable under section 120(B) of the Indian Penal Code?***

**A N D**

***Whether the accused Sri Thaneswar Sonowal and Sri Munindra Sonowal, prior to 07.07.2015 agreed with their co-accused Sri Bapuji Pegu, to commit an illegal act, that is misappropriating the 109 bags of rice seeds, which were entrusted to them for distribution among cultivators, and in pursuance of their illegal act, they sold the rice seeds to the co-accused Sri Munindra Sonowal, and thereby committed an offence punishable under section 120(B) of the Indian Penal Code?***

It is alleged that the accused Thaneswar Sonowal sold the 109 bags of rice / grains bags to the accused Munindra Sonowal and

that those rice bags were allotted to the farmers/cultivators by the government in the name of the Gagaldubi Parichalana Samiti.

The informant in his evidence before the Court as PW1 stated in his evidence that on 06.07.2015 he saw the accused Munindra Sonowal bringing Kothia Dhan from the house of Thanewar Sonowal to his Brahmputra rice mill in a vehicle. After that he informed the youth organization of his village and after discussions called the media. The police seized 100 kg of grains and the accused Thanewar Sonowal and Munindra Sonowal were arrested.

The PW2 stated in his evidence that on the day of the incident, while he was returning from the paddy field, he saw a huge gathering of people near the rice mill of Munindra Sonowal and in the road. He entered into the mill and saw reporters there, they were questioning the accused Munindra Sonowal as to from where did he bring the rice grains and he replied that he purchased them from Thanewar Sonowal. He saw packed food grains in plastic packets and other food grains were kept open in the mill. After that the police came and seized the grains and arrested the accused Munindra Sonowal.

The PW3 stated in his evidence that he saw a huge gathering of people on the day of the incident and that the gathering was due to some incident relating to food grains. That he does not know anything about the incident.

The PW4 and PW5 do not know anything about the incident.

The PW6 stated in his evidence that on the day of the incident in the rice mill of Munindra Sonowal some "Dhan Beez" or some

other grain, he does not know exactly where found and he was informed by some other person who were gathered in the said rice mill and thereafter the police came and seized the grains.

The PW7 does not know anything about the incident, but he saw no. of people and police gathering in the rice mill of Munindra Sonowal.

The PW8 deposed that on the day before the incident the informant and some other persons informed him that 30 quintals of grain were given by the Agriculture Department for distributing the same in the village to the accused Thaneswar Sonowal but he sold the grains in the mill and did not distribute the same among the villagers due to which the informant lodged the case.

The PW9, PW10 and PW11 do not know anything about the incident.

From the above evidences, other than the allegations of the informant, the other PWs did not depose anything about any criminal conspiracy among all the three accused persons for selling the 109 bags of rice seeds and as to any agreement among all the three accused persons in dealing with the 109 bags of rice seeds. Some of the PWs only saw gathering in the rice mill of the accused Munindra Sonowal and other PWs do not know anything about the incident. Hence, considering the nature of evidences, it can be said that the prosecution has miserably failed to prove beyond reasonable doubts that there was a criminal conspiracy among all the three accused persons in dealing with the rice bags which were allotted by the government for the

purpose of distribution among the farmers of the village, as such, they are not found under Section 120(B) of the Indian Penal Code.

- 8.** Both the second points for determination are decided together as they are inter-related: ***whether the accused Sri Bapuji Pegu being an employee of the Agriculture Department, was entrusted by the government with distribution of 109 bags of rice seeds among the cultivators, but he had committed criminal breach of trust by misappropriating and dishonestly disposing of the aforementioned rice seed, prior to 07.07.2015 in violation of the procedure by which such trust was to be discharged and thereby committed an offence punishable under section 409 of the Indian Penal Code?***

**A N D**

***Whether the accused Sri Thaneswar Sonowal and Sri Munindra Sonowal were entrusted by the government with distribution of 109 bags of rice seeds among the cultivators, but they had committed criminal breach of trust by misappropriating and dishonestly disposing of the aforementioned rice seed, prior to 07.07.2015 in violation of the procedure by which such trust was to be discharged and thereby committed an offence punishable under section 406 of the Indian Penal Code?***

The accused Bapuji Pegu who is an employee of the Agriculture Department, and as such, a public servant has been alleged to commit criminal breach of trust by misappropriating and dishonestly disposing of the rice seeds which were entrusted by the government for distribution among the cultivators.

From the evidences, it can be seen that neither the informant and nor the other PWs deposed anything against the accused Bapuji Pegu. In fact, his name was also not mentioned by any of the PWs including the informant. Only PW10 he was the bailer of Bapuji Pegu and the PW11 stated that Bapuji Pegu is his uncle who took him to the police station. In the backdrop of such evidences, it cannot be held that the accused Bapuji Pegu has committed criminal breach of trust with respect to the 109 bags of rice seeds as alleged. As such, he is not found guilty under Section 409 of the Indian Penal Code.

As to the allegations for criminal breach of trust with respect to the 109 rice bags committed by the other two accused Sri Munindra Sonowal and Sri Thaneswar Sonowal, it can be said that the informant, i.e., the PW1 only stated that he saw the accused Munindra Sonowal bringing kothia dhan from the house of Thaneswar Sonowal to his Brahmputra Rice Mill in a vehicle. He did not depose about any misappropriation committed by the said two accused persons. In fact, in his cross examination, he admitted that the accused Thaneswar Sonowal, being the President of the Pothar Parichalona Samiti, all the articles and supplies of the Agriculture Department are kept reserved in his house and he supplies the same to the villagers.

The fact that the accused Munindra Sonowal was bringing grains from Thaneswar Sonowal to his mill does not prove that he has committed criminal breach of trust with respect to the 109 bags of rice allotted by the government. The PW2 only saw the reporters questioning the accused Munindra Sonowal as to the rice grains and he replied that he purchased them from Thaneswar Sonowal. In his cross

examination, he admitted that in the mill of Munindra Sonowal people of about 7-8 villages grinds rice grains and, as such, huge quantity of rice are deposited in his rice mill. The other PWs did not depose about entrustment of the 109 rice bags to the other two accused persons and their misappropriation by them. Hence, considering the nature of evidences, it can be held that the prosecution has miserably failed to prove the guilt of both the accused persons beyond all reasonable doubts under Section 406 of the Indian Penal Code.

- 9.** Both the third points for determination are decided together as they are inter-related: ***Whether the accused Sri Bapuji Pegu, being an employee of the Agriculture Department, was entrusted by the government with distribution of 109 bags of rice seeds among the cultivators, but he had cheated the cultivators and the government, by dishonestly selling the rice seeds to his co-accused prior to 07.07.2015, and thereby committed an offence punishable under Section 420 of the Indian Penal Code?***

**A N D**

***Whether the accused Sri Thaneswar Sonowal and Sri Munindra Sonowal, were entrusted by the government with distribution of 109 bags of rice seeds among the cultivators, but they had cheated the cultivators and the government, by dishonestly selling the rice seeds to their co-accused prior to 07.07.2015, and thereby committed an offence punishable under Section 420 of the Indian Penal Code?***

As to the allegation of cheating the cultivators and the government by dishonestly selling the rice seeds allotted by the

government by selling the same to the other co-accused persons by the accused Bapuji Pegu, it can be said that neither the informant nor any other PWs mentioned anything against the accused Bapuji Pegu committing any cheating with respect to the rice bags. As such, the allegations against him under Section 420 of the Indian Penal Code could not be proved by the prosecution beyond all reasonable doubts thereby making him not guilty under the said Section.

As to the offence of cheating committed by the other two accused persons, it can be said that there is nothing in the evidences of the PWs which proves that the accused persons have committed cheating with respect to the rice seeds allotted by the government. As such, the allegations against them under Section 420 of the Indian Penal Code could not be proved by the prosecution beyond all reasonable doubts thereby making them not guilty under the said Section.

**10.** Hence, summing up all that has been discussed above, the prosecution has failed to prove the guilt of the accused persons u/s 120B/409/406/420 of the Indian Penal Code beyond reasonable doubts.

**(Contd....)**

**ORDER**

As this court finds the accused persons, namely, **Sri Bapuji Pegu, Sri Munindra Sonowal and Sri Thaneswar Sonowal** not guilty of the offence u/s 120B/409/406/420 of the Indian Penal Code, the accused persons are acquitted of the charges u/s 120B/409/406/420 of the Indian Penal Code.

The accused persons are set at liberty forthwith.

The bail bonds are extended for 6 (six) months from today.

The judgment is pronounced in the open court.

**Given under my hand and seal of this court on 17<sup>th</sup> of March, 2020.**

(SMT. SWEETY BHUYAN)  
JUDICIAL MAGISTRATE 1<sup>ST</sup> CLASS  
Lakhimpur, North Lakhimpur

Dictated & Corrected by me:

(SMT. SWEETY BHUYAN)  
JMFC,NORTH LAKHIMPUR

Transcribed & typed by me:

Kumar Gaurav (Stenographer)

**APPENDIX**

**Prosecution witnesses**

1. PW1: DIPU SONOWAL
2. PW2: MINARAM SONOWAL
3. PW3: JITEN KUMAR BHAKTA
4. PW4: MONTU SONOWAL
5. PW5: DHARMENDRA SONOWAL
6. PW6: BHUBON SONOWAL
7. PW7: THOGIRAM SONOWAL
8. PW8: KULADHAR SONOWAL
9. PW9: KALIBAR SONOWAL
10. PW10: DEBOJIT PEGU
11. PW11: SOILEN GOGOI
12. PW12: SI ATUL BORAH

**Defence witnesses**

Nil.

**Documents exhibited by the prosecution**

1. EXHIBIT 1: EJA HAR
2. EXHIBITS 2, 3 & 4: SEIZURE LISTS
3. EXHIBIT 5: SKETCH MAP

**Documents exhibited by the Defence**

Nil.

(SMT. SWEETY BHUYAN)  
JUDICIAL MAGISTRATE 1<sup>ST</sup> CLASS  
Lakhimpur, North Lakhimpur

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