

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

**GR CASE NO.1470/2014  
U/S 447/427 IPC.**

**PRESENT:**

**SMT. SWEETY BHUYAN**  
Judicial Magistrate 1<sup>st</sup> Class  
Lakhimpur, North Lakhimpur.

**PARTIES:**

**STATE OF ASSAM**

**Vs**

**SRI DIMBESWAR CHUTIA**

..... **ACCUSED PERSON**

**Appearance:**

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

For the accused person .....: MR. ADITYA BORUAH

Dates of Evidences .....: 07.09.2018, 08.02.2019,

25.09.2019

Date of Argument .....: 27.02.2020

Date of Judgment .....: 06.03.2020

**JUDGMENT**

**1.** The accused person, namely, **Sri Dimbeswar Chutia**, Son of

Late Bhodia Chutia, R/o village - Bachachuck, Police Station - Boginadi, District - Lakhimpur, here in this case have been put to trial to answer the charges for the offence Punishable under Section 447/427 of the Indian Penal Code.

- 2.** The prosecution case in short is that on 31.07.2014 at about 10 P.M. the informant alongwith her sister-in-law Smt. Durgawati Chutia were sitting on the verandah of the house of the informant. At that time the elder son of the informant went to watch TV and then he saw the accused under the bed of the TV room with a dao. Seeing him, her son raised hue and cry and, as such, the accused came out and attempted to cut him, the informant and her sister-in-law. But, however, he fled away from the back door of the house of the informant by breaking it open. Hence, the case and the same was registered as Boginadi Police Station Case No.100/2014 under Sections 448/427 of the Indian Penal Code against Sri Dimbeswar Chutia. The Investigating Officer submitted Charge Sheet against the accused person, namely, Sri Dimbeswar Chutia under Sections 447/427 of the Indian Penal Code.
- 3.** After appearance of the accused person, the copies of the relevant documents were furnished to the accused person. Upon hearing and on perusal of the case record the particulars

of offence under sections 447/427 of IPC were read over and explained to the accused person by my Learned Predecessor to which he pleaded not guilty and claimed to be tried.

**4.** In support of the case, the prosecution has adduced 5(five) PWs. The statement of the accused person was recorded under Section 313 Cr.P.C. and the accused person denied of committing the alleged offences and also denied to adduce any evidence in his support.

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

- (i) Whether the accused person, on 31.07.2014 at about 10 P.M., entered into or upon the property in the possession of the informant with the intent to commit an offence, and thereby committed an offence punishable under section **447** of IPC?
- (ii) Whether the accused person, on 31.07.2014 at about 10 P.M., in the house of the informant, committed mischief by causing wrongful loss or damage to the property of the informant, i.e., by breaking open the door of the house of the informant and caused a loss of more than the amount of Rs.50/- to the informant, and thereby committed an offence punishable under section **427** of

the Indian Penal Code?

**DECISIONS AND REASONS FOR DECISION:**

6. I have heard the argument from both sides.
7. Both the points for determination are decided together for the purpose of convenience and as they are interrelated.
8. The informant alleged that on 31.07.2014 at about 10 P.M. the informant alongwith her sister-in-law Smt. Durgawati Chutia were sitting on the verandah of the house of the informant. At that time the elder son of the informant went to watch TV and then he saw the accused under the bed of the TV room with a dao. Seeing him, her son raised hue and cry and, as such, the accused came out and attempted to cut him, the informant and her sister-in-law. But, however, he fled away from the back door of the house of the informant by breaking it open.

The informant stated in her evidence as PW1 that on the day of the incident the accused was hiding under the bed with a dao and her son Keshab Chutia saw the accused under the bed and shouted. After that she alongwith her son locked the door of the son where the accused was and they shouted for help, the neighbours gathered, the accused broke the door on the backside of their house and fled away.

The PW2 stated in her evidence that on the day of

the incident, she and the informant were sitting on the front yard of the house of the informant. When the son of the informant Keshab Chutia went inside the house to watch TV, he saw the accused under the bed with a dao and shouted and ran out of the house by locking the door of the room where the accused was. Thereafter, she and the informant shouted and the neighbours gathered and the accused fled away by breaking away the tin door.

The PW3 stated in his evidence that on the day of the incident, he heard noises in the house of the informant and he went there and saw that the accused was running towards his home carrying a dao.

The PW4 stated in his evidence that on the day of the incident he heard that there was a quarrel between the informant and the accused in connection with rent of the shop. That he neither saw the quarrel nor went to the place of occurrence. He heard it from other persons.

The informant and her sister-in-law, i.e., PW2 deposed that the accused entered into the house of the informant with a dao and when the son of the informant saw him and shouted by locking the door of the room where the accused was, the accused fled away by breaking open a door.

The PW3 who deposed that he heard noises in the house of the informant and he went there and saw the accused running towards his home carrying a dao admitted in his cross-examination that he did not see the accused inside the house of the informant. He also admitted that the informant is his daughter-in-law from the side of his mother.

As such, it can be seen that the informant, the PW2 and PW3 are relatives. The PW4 who is an independent witness only heard that there was a quarrel between the informant and the accused and he neither saw the quarrel nor went to the place of occurrence. Moreover, the son of the informant, who is a vital witness of this case, has been failed to be added as a witness by the prosecution. Hence, the evidences, which were given against the accused were given by the related witnesses and the only independent witness did not depose anything material to the offence.

Adding to the above, none of the witnesses including the informant deposed about any loss caused to the informant. Therefore, the allegations of causing loss to the informant by committing mischief by the accused could not be established by the prosecution.

As such, from the nature and quality of the

evidence, it can be held that the prosecution has miserably failed to prove the guilt of the accused beyond all reasonable doubts thereby making him not guilty under Sections 447/427 of the Indian Penal Code.

**(Contd....)**

**ORDER**

As this court finds the accused person, namely, **Sri Dimbeswar Chutia**, not guilty of the offence u/s 447/427 of IPC, the accused person is acquitted of the charges u/s 447/427 of IPC.

The accused person is set at liberty forthwith.

The bail bond is 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 6<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: SMT. MOROMI CHUTIA
2. PW2: SMT. DURGAWATI CHUTIA
3. PW3: SRI DHAN CHUTIA
4. PW4: SRI NIRAN CHUTIA
5. PW5: ASI DAMBARU DUTTA

**Defence witnesses**

Nil.

**Documents exhibited by the prosecution**

1. EXT.1: EJA HAR
2. EXT.2: SKETCH MAP
3. EXT.3: CHARGESHEET

**Documents exhibited by the Defence**

Nil.

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

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JMFC,NORTH LAKHIMPUR

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