

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,  
LAKHIMPUR, NORTH LAKHIMPUR**

**GR CASE NO: 1713 of 2012**

**Under Section 417 IPC.**

**State**

**-Versus-**

**Sri Dina Bora ..... Accused Person**

**PRESENT : Sri Jayanta Kumar Saikia, AJS  
Judicial Magistrate, First Class  
Lakhimpur, North Lakhimpur.**

**ADVOCATES APPEARED-**

**FOR THE PROSECUTION : Sri Debajit Dutta Borah .**

**FOR THE ACCUSED : Sri Dambaru Bhuyan**

**CHARGE FRAMED ON: 16.02.2016**

**EVIDENCE RECORDED ON : 31.06.2016 29-04-2019**

**ARGUMENT HEARD ON : 29-04-2019**

**JUDGMENT DELIVERED ON: 29-04.2019.**

**JUDGMENT**

- 1** The prosecution case sets into motion on filing a F.I.R, by the informant, Smt. Harina Das alleging that on 28.09.2011 and 19.10.2011, the accused person Sri Dina Borah borrowed Rs. 1,50,000/- (one lakh fifty thousand) from her with a promise to return it within stipulated period, but the accused person has cheated her without paying back her money. Hence, she lodged this case.
- 2** The Officer-in-charge, North Lakhimpur Police Station, on receipt of Ejahar, registered North Lakhimpur P.S. Case No. 800/2012, under section 420 of IPC and endorsed the concerned IO for investigation. After completion of the investigation, the concerned I.O. submitted charge- sheet against the accused person, Sri Dina Bora under Section of 420 of IPC.
- 3** In due course, on receipt of summon, the accused person appeared before the Court and the copies of relevant documents were furnished to him as per section 207 of CrPC. Having found a prima facie case against the accused person under Section 417 of IPC, the charge is framed under section 417 of IPC against the accused person, by the then Learned SDJM(S), Lakhimpur, North Lakhimpur, which is read over and explained to him vide order dated 16.02.2016 to which he pleaded not guilty and claimed to be tried.
- 4** The prosecution, in support of its case, examined only two (02) witnesses. The Learned Assistant Public Prosecutor prayed to close the PW evidence as the principal witness i.e, who is the informant of the case does not support the prosecution case.
- 5** The statement of the accused person under section 313 of Cr.PC is dispensed with as there are no incriminating materials found against the accused person. Defence side examined no witnesses.
- 6** I have heard the arguments advanced by the learned counsels for both sides.

**7 POINTS FOR DETERMINATION:-**

(i) Whether on 19.10.2011, by deceiving Smt. Harini Das, W/O: Late Gajen Borah, resident of Chandmari under North Lakhimpur Police Station, the accused person intentionally induced her to deliver him a sum of Rs.50,000/- by promising her that he would repay her the said amount else he would not have give the said money to her and thereby committed an offence punishable under Section-417 of IPC?

**DISCUSSION, DECISION AND REASONS THEREOF**

- 8** In the instant case, the prosecution side adduced the evidences of PW1 and PW-2 (informant) to establish their case but none of the PWs have supported the prosecution story.
- 9** The evidence of **PW1**, namely, Smt. Junmoni Borah, reveals that she knows the accused person and accused person is her husband. She deposed in her examination-in-chief that she know nothing about the occurrence. Her cross-examination is declined by the defence side.
- 10** The evidence of **PW2**, namely, Smt. Harini Das, who is the informant of the case, reveals that the accused person is her neighbour. She deposed in her examination-in-chief that in the year 2012, some disputes took place between the accused person and her regarding some monetary transactions. They have amicably settled their disputes with the intervention of the family well-wishers. She lodged this case due to misunderstanding and she does not want to proceed with this case by adducing evidence. In her cross-examination, she deposed that she has no allegation against the accused person. She has no objection, if the accused person gets acquittal in this case.
- 11** The Learned Assistant Public Prosecutor prayed to close the PW evidence stating that the principal witness, who is the informant of the case has not supported the prosecution case. The PW2 (informant) of the case deposed in her testimony that she has no

allegation against the accused person as the case was lodged due to misunderstanding. Her testimony reveals that she does not want to proceed with the case by adducing evidence as they have amicably settled their dispute. The testimony of the aforesaid witness is voluntary and her testimony reveals that at present, she has no objection, if the accused person gets acquittal in this case. There is nothing in the evidence incriminating the accused person that he has committed an offence under section- 417 of IPC.

**12** Situated thus, in my considered opinion, the prosecution side has failed to bring home the guilt of the accused person offence under section 417 of IPC as the informant of the case did not support the prosecution story.

### **ORDER**

In the light of aforesaid discussions and reasons, it is seen that the prosecution side has failed to prove the guilt of the accused person. Accordingly, the accused person, Sri Dina Bora is acquitted of the offence under Section 417 of IPC and he is set at liberty forthwith. The bail bonds and surety of the accused person shall remain in force for a period of 6 months from today as per amended.

**Given under my hand and seal of this court on this 29<sup>th</sup> day of April, 2019.**

Sri Jayanta Kumar Saikia  
Judicial Magistrate, First Class,  
Lakhimpur, North Lakhimpur

**GR Case No-1713 of 2012**

**APPENDIX**

***PROSECUTION EXHIBITS:***

NIL

***DEFENCE EXHIBITS***

NIL

***PROSECUTION WITNESSES***

PW1: Smt. Junmoni Borah.

PW-2: Smt. Harini Das (informant)

***DEFENCE WITNESSES***

NONE

***MATERIAL EXHIBITS***

NIL

Sri Jayanta Kumar Saikia  
Judicial Magistrate, First Class,  
Lakhimpur, North Lakhimpur