

GR CASE NO: 519 of 2013

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

GR CASE NO: 519 of 2013

Under section 387/34 IPC.

State

-Versus-

Sri Golap Bora

Sri Torun PeguAccused Persons

**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 Arup Kalita.
Sri Suchil Bori**

CHARGE FRAMED ON: 11.01.2016

EVIDENCE RECORDED ON: 25.02.2016, 26.02.2019

13.03.2018, 06.06.2019

ARGUMENT HEARD ON: 06.06.2019

JUDGMENT DELIVERED ON: 10-06-2019.

JUDGMENT

- 1.** The prosecution case in brief as reveals in the FIR filed by the informant, namely, Sri Girindra Dutta Choudhury, is that on 01.02.1998 at 5 pm to 6 pm, four identified persons, visited the brick factory, where the informant was employed, situated at 11 Mile Bordubi, Mouza, Telahi under the jurisdiction of Panigaon Police Station, as ULFA members and demanded extortion money amounting to Rs.1,50,000/- (one lakh fifty thousand) from the manager. It is further alleged that one of the accused persons criminally intimidated them by holding a gun on his hand. The employees of the brick factory caught the accused person, Sri Golap Bora and handed him to police. Hence, the informant lodged this case.
- 2.** On receipt of the same, the I/C, Panigaon Outpost vide Panigaon Outpost vide GDE no-13 dated 01.02.1998 and forwarded the same to the Officer-in-charge, North Lakhimpur Police Station for registering a case under proper section of law. The Officer-in-charge, North Lakhimpur Police Station, on receipt of Ejahar registered North Lakhimpur P.S. Case No. 100/1998, under section 387of IPC, Read with section 25(1) Arms Act and endorsed the concerned IO for investigation. When Panigaon Police station was formed, the said case was sent to Panigaon police station by the O/C, North Lakhimpur Police Station, which was received as Panigaon PS Case No-57 of 2013 under section 387 of IPC, Read with section 25(1) Arms Act. Thereafter, after completion of the investigation, the concerned I.O. submitted charge sheet against the accused persons, namely, Sri Golap Bora, Sri Torun Pegu and Sri Kamala Doley under section 387/34 of IPC.
- 3.** In due course, the accused persons appeared before the Court on receipt of summons and the copies of relevant documents were furnished to them as per section 207 of CrPC. Having found a prima facie case against the accused persons under section 387/34 of IPC and the charge is framed under Section 387/34of IPC, which is read

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over and explained to them vide order dated 11.01.2016 to which they pleaded not guilty and claimed to be tried. During trial, the accused person, namely, Late Kamala Doley expired on 18.10.2016 and as per the report of his Death dated 03.02.2018, which was received through O/C Bihpuria Police station, the case is abated against the accused person, namely, Late Kamala Doley vide order dated 13.03.2018.

- 4.** The prosecution, in support of its case, examined five (05) witnesses including the investigating officer. The Learned Asstt. Public Prosecutor prayed to close the PW evidence as the principal witnesses, who are the informant and the victim of the case do not support the prosecution story.
- 5.** The statements of the accused persons under section 313 of Cr.PC are dispensed with as there are no incriminating materials found against the accused persons. Defence side examined no witnesses.
- 6.** I have heard the arguments advanced by the learned counsels for both sides.

7. POINTS FOR DETERMINATION:-

(ii) Whether on 01.02.1998, at 11 Mile Bordubi, under the Panigaon Police Station, the accused persons, in furtherance of their common intention, put the informant, Sri Girindra Dutta Choudhury, Sri Girish Saikia, Sri Gobin Kalita and Shibu Pegu in fear of death or of grievous hurt in order to commit extortion and thereby committed an offence punishable under Section-387/34 of IPC?

DISCUSSION, DECISION AND REASONS THEREOF:

- 8.** In the instant case, the prosecution side marshaled evidences of five (05) witnesses in support of their case. Let us discuss their testimonies one by one.
- 9.** The evidence of **PW1**, namely, Sri Girish Saikia, and **PW2**, namely, Sri Gobin Kalita, reveals that they do not know the

informant and the accused persons of this case and they also know nothing about the occurrence. Their cross-examination is declined by the defence side.

10. The **PW3**, namely, Sri Siva Pegu, reveals that he does not know the informant of this case, namely, Sri Girindra Dutta Choudhury. He deposed that he does not know anything about the incident and he has appeared on receipt of summon only. His cross-examination is declined by the defence side.

11. Now, according to the prosecution story, the accused persons, in furtherance of their common intention, put the informant, Sri Girindra Dutta Choudhury, Sri Girish Saikia (PW1), Sri Gobin Kalita (PW2) and Shibu Pegu (PW3) in fear of death or of grievous hurt in order to commit extortion. But, the victims of this case Sri Girish Saikia (PW1), Sri Gobin Kalita (PW2) and Shibu Pegu (PW3) have not supported the prosecution case and stated that they have no knowledge regarding the alleged incident.

12. The prosecution side also adduced evidences of PW4 (I.O), namely, Sri Rudra Kanta Hazarika and PW5 (I.O), namely, SI Jyoti Borah. They deposed in their testimonies about the investigation of the case. It is also found from the evidence of I.O(PW5) namely, SI Jyoti Borah that he could not find any trace of the informant, Sri Girindra Dutta Choudhary during investigation as on being inquired the owner of the brick factory informed him that the informant left his work and the owner does not have his present address. It is also found that the informant has only furnished his temporary address i.e his working place Sarong Bordupi, PS: Panigaon, Lakhimpur in his ejahar and in his statement recorded under section 161 of Cr.PC. Due to these circumstances, it is not possible for the part of the prosecution side to produce the said informant before this court. Considering pendency of this old pending case, which was registered in the year 1998, I am of the considered opinion that the PW evidence to be closed in this case in which all the three (03) victims who were examined have not supported the prosecution case.

13. Situated thus, in my considered opinion the prosecution side has failed to bring home the guilt of the accused persons under section 387/34 of IPC.

ORDER

In the light of aforesaid discussions and reasons, it is seen that the prosecution side failed to prove the guilt of the accused persons.

Accordingly, the accused persons, namely, Sri Golap Bora and Sri Torun Pegu are acquitted of the offences under Section 387/34 of IPC and they are set at liberty forthwith.

The bail bonds of the accused persons and their sureties shall remain in force for a period of 6 months from today as per amended CrPC.

Let the seized materials be disposed of as per law.

Given under my hand and seal of this court on this 10th day of June, 2019.

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

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APPENDIX

PROSECUTION EXHIBITS:

Exhibit:-1 Endorsement order

Exhibit:-2 Sketch Map.

Exhibit:-3 Charge-sheet.

DEFENCE EXHIBITS

NIL

PROSECUTION WITNESSES

PW-1: Sri Girish Saikia

PW-2: Sri Gobin Kalita

PW-3: Sri Siva Pegu

PW-4: Sri Rudra Kanta Hazarika (I.O)

PW-5: Jyoti Borah (I.O)

DEFENCE WITNESSES

NONE

MATERIAL EXHIBITS

NIL

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