

**IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE  
(SADAR), NORTH LAKHIMPUR, LAKHIMPUR**

**GR CASE NO: 510 of 2017**

**U/S 420/406 of IPC**

**State**

**-Versus-**

**Sri Mahesh Deuri**

**.....Accused person**

**PRESENT : Smt. Sorbani Bhattacharjee , AJS  
Sub Divisional Judicial Magistrate (Sadar)  
Lakhimpur, North Lakhimpur.**

**ADVOCATES APPEARED-**

**FOR THE PROSECUTION : Sri Khirod Kr. Kakoti.**

**FOR THE ACCUSED : Sri Hari Prashad Phukan.**

**EVIDENCE RECORDED ON : 25.10.2018**

**ARGUMENT HEARD ON : 28.05.2019**

**JUDGMENT DELIVERED ON: 28.05.2019**

**JUDGMENT**

1. The prosecution story in brief is that the accused Mahesh Deuri was the Deputy Chief Executive Councilor of D.A.C., Narayanpur, in the year 2009. That during the mentioned period the Govt. of Assam sanctioned funds for distribution of GCI sheets to the poor people of D.A.C. area. That the accused person with mutual understanding with some other Executive Members of DAC misappropriated the said funds released for the scheme for distribution of GCI sheets without distributing the

said GCI sheets among the poor beneficiaries. The beneficiary list was prepared by the accused Mahesh Deuri in the name of fake beneficiaries and was totally false. There is no such beneficiaries existing in their village namely Uddesyapur, Bordeori. The signature of the beneficiaries is also forged. The Lat. Gaonburah has also certified that no such named beneficiaries are resident of their village and Gaonburah's signature is also forged. Thus he has misappropriated the said govt. fund by making false beneficiaries list and forging their signatures and thus cheated the poor people. The accused Mahesh Deuri also issued fake work orders in some contractor's name which are kept in office file, upon inquiry the said contractors said that they have no knowledge of such work order and supply of GCI sheets. The accused namely Sri Mahesh Deuri has misappropriated more than 15 lakhs in the name of distribution of GCI sheets among the poor people. Thereby he has cheated the poor people and misappropriated the huge amount of government funds meant for public by making false work orders and utilization report. This information was received through RTI by the informant.

2. The Officer-in-charge, Narayanpur police station, on receipt of Ejahar registered Narayanpur P.S. Case No. 26/2017, U/S 420/406 of IPC and started investigation. After completion of the investigation, the concerned I.O. submitted charge sheet against the accused person Sri Mahesh Deuri U/S 420/406 of IPC.

3. In due course, 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 the charge U/S 420/406 of IPC were framed, which were read over and explained to him to which he pleaded not guilty and claimed to be tried.

4. The prosecution, in support of its case, examined three witnesses including the informant. The statement of the accused person has been recorded U/S 313 of the Code of Criminal Procedure. Defence side examined no witnesses. I have heard the arguments advanced by the learned counsels for both sides.

**5. POINTS FOR DETERMINATION :-**

(i) Whether the accused person in the year 2008 to 2010 at Narayanpur under the jurisdiction of Narayanpur Police Station, being the Deputy Chief Executive Councilor of the Deori Autonomous Council was entrusted with Government of Assam sanctioned funds for distribution of GCI sheets to the poor people of Deori Autonomous Council area and you converted the funds to your own use by preparing a fake beneficiary list and forged the signatures of beneficiaries of Uddesyapur, Bordeori Gaon, committed criminal breach of trust in respect of the said funds and also issued fake work orders of utilization report in the name of some contractors including false work orders and thereby committed an offence punishable under section 406 of Indian penal Code ?

(ii) Whether the accused on the same day, time and place, cheated the Govt. of Assam by dishonestly inducing the Government to deliver sanctioned funds for distribution of GCI sheets to the poor people of Deori Autonomous Council area to the accused and thereby committed an offence punishable under section 420 of Indian penal Code ?

**DISCUSSION, DECISION AND REASONS THEREOF:**

6. PW-1 Sri Numal Deuri in his evidence deposed that he is the informant of this case. He knows the accused. Accused was the Deputy Chief Executive Councilor of Deuri Autonomous Council at the time of incident. Assam Govt. gave some C.I. Sheets (tin) to

the accused for distribution to public. Someone made an RTI application to get the beneficiary list. From the RTI information they came to know that names of some persons were left from the list. Hence, they lodged this case. Later on those beneficiaries also got the C.I. sheets. Ext.1 is the ejahar lodged by him and Ext.1(1) is his signature.

In cross-examination, he deposed that he has not written the ejahar himself. It was written in English. He does not know the contents of the ejahar.

7. PW-2 Sri Prabin Kr. Deuri in his evidence deposed that he knows the informant and accused. Accused was the Deputy Chief of Deuri Autonomous Council. Out of misunderstanding informant lodged the case. Defence declined to cross-examine him.

8. PW-3 Sri Dina Prasad Deuri in his evidence deposed that he knows both the informant and accused. He does not know anything about the incident. The case was later on amicably settled between both parties. Defence declined to cross-examine him.

9. In this case prosecution examined altogether three witnesses including the informant Sri Numal Deuri. The evidence of PW-1 reveals that at the time of the incident the accused was Deputy Chief Executive Councilor of Deuri Autonomous Council. The Govt. of Assam gave some C.I. sheets (tin) to the accused for distribution to public. Someone get some information after filing RTI application that the names of some persons were left from the list. PW-1 in his evidence failed to disclose the name of the persons who filed the RTI application and from whom the RTI applicant received the information as alleged by him. PW-1 also failed to disclose the names of the beneficiaries whose names were not found in the list. Prosecution failed to examine any of the beneficiaries who were deprived by the accused. On perusal of the FIR it is seen that he made allegation against the accused of cheating and misappropriating the funds released for distribution of GCI sheets among with poor beneficiar`ies along with other FIR-

named accused persons. But the informant did not support his case while adducing evidence. In his cross-examination he denied about knowing the contents of the ejahar. PW-2 Sri Prabin Kumar Deori and PW-3 Sri Dina Prasad Deori also did not support the prosecution case. The evidence of PW-2 reveals that the instant case case was lodged by informant out of misunderstanding. The evidence of PW-3 reveals that he does not know anything about the incident and the case was later on, amicably settled between both the parties. Prosecution did not examine the other witnesses of this case including the I.O.

10. From the testimony of the PWs, it is apparent that none of them have incriminated the accused of committing any offences u/s-406/420 of IPC. None of them have supported the prosecution case and in such circumstances the accused is entitled to get acquitted. Situated thus, I am of the opinion that the ingredients of the offences u/s 420/406 of IPC have not been proved against the accused person beyond all reasonable doubt by the prosecution and hence the accused person is hold not guilty for the alleged offences.

### **ORDER**

11. Accordingly, the accused person Sri Mahesh Deuri is acquitted of the offences U/S 420/406 of IPC and he is set at liberty forthwith. The bail bond of the accused person and his surety shall remain in force for a period of 6 months from today as per amended CrPC.

**Given under my hand and seal of this court on this 28<sup>th</sup> day of May, 2019.**

**Smti Sorbani Bhattacharjee, AJS  
Sub Divisional Judicial Magistrate (S)  
Lakhimpur, North Lakhimpur**

**GR 510 of 2017**

**APPENDIX**

***PROSECUTION EXHIBITS:***

Ext.1 : Ejahar

***DEFENCE EXHIBITS***

NIL

***PROSECUTION WITNESSES :***

- (1) PW-1 Sri Numal Deuri
- (2) PW-2 Sri Prabin Kr. Deuri
- (3) Sri Dina Prasad Deuri

***DEFENCE WITNESSES***

NONE

***MATERIAL EXHIBITS***

NIL

**Smt. Sorbani Bhattacharjee, AJS  
Sub Divisional Judicial Magistrate (S)  
Lakhimpur, North Lakhimpur**