

**IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE
AT NORTH LAKHIMPUR**

G.R CASE NO: 640 OF 2016
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: SRI LAKHI LUNGLY

DISTRICT: NORTH LAKHIMPUR
IN THE COURT OF ADDITIONAL CHIEF JUDICIAL
MAGISTRATE, AT NORTH LAKHIMPUR

GR CASE NO: 640 / 2016

U/S 435 OF I.P.C

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: SRI LAKHI LUNGLY

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P SRI R. DUTTA
ADVOCATE FOR THE ACCUSED: SRI D. POKHREL (LEGAL AID)

CHARGE FRAMED ON : 08/02/2021
EVIDENCE RECORDED ON : 06/03/2021

ARGUMENT HEARD ON : 06/03/2021
JUDGMENT DELIVERED ON : 06/03/2021

JUDGMENT

PROSECUTION'S CASE IN BRIEF:

1. Prosecution's case in brief as it reveals from the FIR is that on 24.03.2016 at about 11.45 PM, informant Smt. Junu Borah saw that somebody set fire on the back door of her house. At that time, accused Sri Lakhii Lungly called the informant over phone and said that he set fire on the aforesaid door and he will kill the informant and her family members in

future. The informant thereafter, lodged an FIR about the occurrence before the OC of Narayanpur police station.

2. On receipt of the F.I.R, a case was registered being numbered as Narayanpur P.S Case No. 53/2016. After investigation, I.O of the case submitted charge sheet against accused Sri Lakhi Lungly for the offences punishable u/s 435 of IPC. Copies of relevant documents were furnished to accused u/s 207 CrPC. Considering the relevant documents and hearing both the parties, charge was framed against the accused for the offence u/s 435 of IPC. The charge was then read over and explained to the accused to which he pleaded not guilty and stood to face the trial.

3. The prosecution in support of its case examined one witness, whereas the defence did not examined any witness. Finding no incriminating materials against the accused persons their cross-examination u/s 313 of CrPC was dispensed with. I have heard the learned counsel for both the parties.

4. Upon hearing and on perusal of record I have framed the following points for determination-

5. **POINTS FOR DETERMINATION:**

(i) Whether the accused on 24.03.2016 at about 11.45 PM in the night, committed mischief by fire by setting ablaze the house of informant Smt. Junu Borah, intending to cause, or knowing it to be likely that he will thereby cause damage to the property of informant amounting to Rs. 100/- or upwards, and thereby committed an offence punishable u/s 435 of IPC?

DISCUSSION, DECISION AND REASONS THEREOF:

POINT NO. 1:

6. As regards the aforesaid points for determination, informant Smt. Junu Borah as PW-1 in her evidence-in-chief has stated that about four years back somebody set fire on the door of her house and she lodged this case against the accused out of suspicion. She does not know that who actually set fire on the aforesaid door, and as such, she is not willing to proceed with this case against the accused. During her cross-

examination, PW-1 has stated that she has no objection if the accused is acquitted. In this context, PW-2 Sri Supnadar Konwar in his evidence-in-chief has stated that he do not know anything about the occurrence of this case.

7. At the time of argument, Id. Counsel for the defence submitted that the prosecution has failed to prove its case as alleged and hence the accused is liable to be acquitted from this case.

8. On perusal of the evidence deposed by PW-1 and PW-2 as narrated above, it is seen that at the time of occurrence somebody allegedly set fire on the door of the house of informant. However, the informant/PW-1 does not know that who set the aforesaid door on fire. In fact, the PW-1 has clarified that she do not know that whether it was the accused who set fire on that door. This shows that there is nothing in the evidence deposed by PW-1 and PW-2 which can show that the accused is in any way connected with setting fire on the door of informant's house. As such, it is clear that the witnesses examined by prosecution have not deposed any incriminating material against the accused. Hence, I find that the witnesses examined by prosecution have failed to prove that the accused has committed the offence as alleged in the FIR and as quoted in the aforesaid point for determination.

DECISION: This point is therefore decided in the negative and goes against the prosecution.

ORDER

9. In view of the discussions made above and the decisions reached in the foregoing points for determination, it is held that the witnesses examined by prosecution have failed to prove beyond reasonable doubts that accused Sri Lakhi Lungly has committed the offence under section 435 of IPC as alleged, and as such, the said accused is acquitted of the charges under section 435 of IPC on benefit of doubt and he be set at liberty forthwith. Issue release order.

This judgment is given under my hand, and seal of this court on this the 6th day of March, 2021.

The case is disposed of on contest.

(F. U Choudhury)
Additional Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

APPENDIX**PROSECUTION EXHIBITS:**

Exhibit.1 – FIR

PROSECUTION WITNESSES:

1. PW-1 – Smt. Junu Borah
2. PW-1 – Sri Swapnadhar Konwar

DEFENCE EXHIBITS:

NIL

DEFENCE WITNESSES:

NIL

(F. U Choudhury)
Additional Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur