

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS

North Lakhimpur, Lakhimpur

PRESENT: Ms. Sparsita Garg, M.A, LL.M, AJS

Judicial Magistrate First Class,

Lakhimpur, North Lakhimpur

P.R. Case No.813/2019

State

Versus

Sri Kenai Das

(Under section 380 IPC)

Charge framed on : 20.02.2021
Evidence recorded on : 17.04.2021
Statements recorded on : Dispensed with
Arguments heard on : 17.04.2021
Judgment delivered on : 17.04.2021
Advocate for the Prosecution : Mr. Jangki Doley
Advocate for the Accused : Mr. Papu Das

J U D G E M E N T

- 1.** Accused stood for trial for commission of offence u/s 380 IPC.
- 2.** The prosecution case is initiated on the basis of written ejahar dated 19.04.2019 stating *inter alia* that on 17.04.2019 at about 08:00 p.m., the accused unlawfully entered into the house of the informant by breaking the lock of the door and destroyed her

household articles and thereafter took away Rs.2,000/- (Rupees Two Thousand) only from her house. The accused was caught red handed while he was leaving the house of the informant. Hence, this case.

3. On receipt of the ejahar, the Officer-in-Charge of Narayanpur Police Station registered the case as Narayanpur P.S. case no. 87/2019 u/s 380 IPC. Thereafter Investigating Officer launched investigation of the case and submitted chargesheet u/s 380 of the Indian Penal Code against the accused namely Sri Kenai Das.

4. Thereafter, cognizance has been taken and summon have been issued to the accused. On appearance of accused, necessary documents required u/s 207 Cr.P.C have been furnished to them. On perusal of the materials on record formal charges u/s 380 IPC is read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

5. Prosecution in support of its case has examined only one (1) witness.

6. Examination of accused u/s 313 Cr.P.C. is dispensed with since no incriminating materials are found against him. Accused denied adducing evidence in defence.

7. I have heard the arguments advanced by the learned counsel for the accused and Ld. A.P.P. Perused the materials available in the case record. Upon hearing both the parties and on perusal of the record, following points for determination are formulated for proper adjudication of this case.

POINTS FOR DETERMINATION:

Point No 1: Whether the accused on 17.04.2019 at about 8:00 p.m., at Sensuwa, Narayanpur, committed theft of Rs.2000/- (Rupees Two Thousand) only from the house of the informant by unlawfully entering into her house and thereby committed an offence punishable u/s 380 of IPC?

DISCUSSIONS, DECISIONS AND REASONS THEREOF:

8. Now let me try to decide the above points by appreciating the evidence available in the case record. I have carefully considered the evidence available in the instant case. From the evidence of **P.W-1/informant Parismita Das Borah**, it reveals that the informant is no more interested to proceed with the case against the accused on the ground that the matter is amicably settled between them. It also reveals that the informant herself has refused to lead evidence against the accused in support of the ejahar lodged in this case by her. Thus, from the little evidence that has been brought before this court in the form of statement made by the informant/P.W-1, it is seen that no offence has been made out against the accused under any section of law. Situated thus, it is found that the informant has failed to implicate the accused of any offence.

ORDER

9. In view of the above discussions, I am of the considered opinion that, prosecution has failed to establish the case against accused namely Sri Kenai Das. Accordingly, accused is acquitted of the charge u/s 380 IPC levelled against him in this instant case.

10. Set the accused at liberty forthwith.

11. The bail bond for the accused is extended for a further period of six (6) months.

12. The case is disposed of on contest accordingly.

Given under my hand and seal on this 17th day of April, 2021 at North Lakhimpur, Lakhimpur.

(Ms. Sparsita Garg)
Judicial Magistrate First Class
Lakhimpur, North Lakhimpur

APPENDIX

A. WITNESS OF PROSECUTION:

1. P.W.1 : Parismita Das Borah

B. EXHIBITS OF PROSECUTION:

1. Exhibit 1 : Ejahar
2. Exhibit 1(1): Signature of the informant

C. WITNESS OF DEFENCE: NIL

D. EXHIBITS OF DEFENCE: NIL

(Ms. Sparsita Garg)
Judicial Magistrate First Class
Lakhimpur, North Lakhimpur