

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

G.R CASE NO: 253 OF 2011
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: MD. OSMAN ALI AND ORS.

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

GR CASE NO: 253 / 2011

U/S 420/511/34 OF I.P.C

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: MD. OSMAN ALI AND ORS.

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P SRI R. DUTTA
ADVOCATE FOR THE ACCUSED: SRI B. M DAS& SRI N. SAIKIA

CHARGE FRAMED ON : 09.08.2018
EVIDENCE RECORDED ON : 12.04.2019

ARGUMENT HEARD ON : 12.02.2020
JUDGMENT DELIVERED ON : 14.02.2020

JUDGMENT

PROSECUTION'S CASE IN BRIEF:

1. Prosecution's case in brief as it reveals from the F.I.R is that on 02.03.2011 informant Sri Rajesh Rudra paul along with his friends Sri Keshab Kuwar, Sri Thanjanlal Halom and Sri Nyayjanmoni Halom came to Laluk, Lakhimpur in search of work. At about 5.30 PM on that day, accused Sri Chandan Bakchi met the informant and his companions at Laluk and offered them job and then took them to the house of accused Md. Osman Ali. Accused Md. Abdul Rajak

was also present in the house of accused Osman Ali. Thereafter, all the three accused persons tried to take money from the informant and his companions by making false representation and committing fraud upon them. However, police came there in the meantime and recovered the informant along with his above named companions. The informant thereafter lodged an FIR about the occurrence before the O/C of Laluk police station.

2. On receipt of the F.I.R, a case was registered being numbered as Laluk P.S Case No. 28/11 and after investigation I.O of the case submitted charge sheet against accused persons Sri Chandan Bakchi, Md. Abdul Rajak and Md. Osman Ali for the offence punishable u/s 420/511/34 of IPC. Thereafter, process was issued to all the three accused persons in response to which accused Md. Osman Ali and Abdul Rajak appeared. However, accused Chandan Bakchi remained absent without any step due to which this case was filed against him vide order dated 11.10.2017. Copies of relevant documents were furnished to the rest two accused persons u/s 207 CrPC. Considering the relevant documents and hearing both the parties, charge was framed in writing against accused Md. Abdul Rajak and Md. Osman Ali for the offence punishable u/s 420/511/34 of IPC in separate form. The charges are then read over and explained to the accused persons to which they 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 examine 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 persons on 02.03.2011 at about 5.00 PM at Nadikagaon under Laluk police station, in furtherance of their common intention, attempted to cheat informant Sri Rajesh Rudra Paul and his above named companions, and in such attempt the accused persons took the informant and his companions to Nadika village and dishonestly made false

promise to provide job to the informant and his companions, and thereby committed an offence punishable u/s 420/511/34 of IPC?

DISCUSSION OF EVIDENCE, DECISION AND REASONS THEREOF:

6. As regards the aforesaid point for determination, PW-1 Md. Siddique Ali in his evidence-in-chief has stated that he do not know the informant. He also do not know accused Chandan Bakchi, but he knows other two co-accused. He do not know anything about the occurrence of this case.

7. From the statements made by PW-1 as narrated above, it is clear that the PW-1 do not have any knowledge about the occurrence of this case due to which he has not deposed anything to support the case of prosecution. As such, it is clear that there is nothing in the evidence of PW-1 which can show that the accused persons have attempted to cheat the informant at the time of alleged occurrence. Therefore, it is clear that the PW-1 examined by prosecution has not deposed any incriminating materials and has failed to prove the case of prosecution as alleged in the FIR.

8. Before parting with the discussion, I deem it fit to mention here that the informant and his above named three companions were summoned several times to appear before this court but they did not appeared to depose evidence. Ultimately, bailable warrant of arrest were issued against them but their attendance could not be procured as the warrants same were returned unexecuted with report that the witnesses are not traceable in the given address as they are out of station in connection with their work. On the basis of aforesaid reports, and keeping in view the fact that this case is a very old pending one, the evidence of informant and his above named three companions was dispensed with vide order dated 17.07.2019 and 02.01.2020 passed in this case.

DECISION: Point no.1, 2, & 3 are therefore decided in the negative and goes against the prosecution.

ORDER

10. In view of the discussion made above and the decision reached in the foregoing point for determination, it is held that the witness examined by

prosecution has failed to prove that accused Md. Osman Ali and Abdul Rajak have committed the offences punishable under section 420/511/34 of I.P.C as alleged, and as such, the above named two accused persons are acquitted of the charges under section 420/511/34 of I.P.C and they be set at liberty forthwith.

The bail bond of the accused persons shall remain in force for another six months from today.

This judgment is given under my hand, and seal of this court on this the 14th day of February, 2020.

The case is disposed of on contest.

F.U. Choudhury
Additional Chief Judicial Magistrate
North Lakhimpur

APPENDIX

- (A) PROSECUTION EXHIBITS
Nil
- (B) DEFENCE EXHIBITS
Nil
- (C) PROSECUTION WITNESSES
P.W. 1 – Md. Siddique Ali
- (D) DEFENCE WITNESSES
Nil

F.U. Choudhury
Additional Chief Judicial Magistrate
North Lakhimpur