

GR CASE NO: 1568 of 2012

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

GR CASE NO: 1568 of 2012

Under section 406/506/34 IPC.

State

-Versus-

Sri Debajit Baruah

Sri Mridul BorahAccused 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 Sanjib Gogoi.
Smt. Mitali Doley**

CHARGE FRAMED ON: 21.11.2015

EVIDENCE RECORDED ON: 14.03.2019

ARGUMENT HEARD ON: 14.03.2019

JUDGMENT DELIVERED ON: 28-03-2019.

JUDGMENT

- 1.** The prosecution case in brief is that the informant, namely, Sri Achyut Bhuyan lodged this case against the accused persons, Sri Debajit Baruah and Sri Mridul Borah alleging that the accused persons cheated the informant by inducing him to deliver him the articles of theatre company i.e Satabdi Theatre and money. Hence, he lodged this case.
- 2.** The Officer-in-charge, Bihpuria Police Station, on receipt of Ejahar registered Bihpuria P.S. Case No. 101/2007, under section 406/420/506/384/34 of IPC. Later on, the case is transferred to Narayanpur Police station and the then Officer-in-Charge Narayanpur Police Station registered Narayanpur Police case no-145/2012 under section 406/420/506/384/34 of IPC. After completion of the investigation, the concerned I.O. submitted charge sheet against the accused persons, Sri Debajit Baruah and Sri Mridul Borah under section 406/506/34 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 406/506/34 of IPC, the charge is framed under Section 406/506/34 of IPC, which is read over and explained to them by the then Learned SDJM(S), Lakhimpur, North Lakhimpur vide order dated 21.11.2015 to which the accused persons pleaded not guilty and claimed to be tried.
- 4.** The prosecution, in support of its case, examined one (01) witness, who is the informant and victim of the case. The Learned Asstt. Public Prosecutor prayed to close the PW evidence as the principal witness, who is the informant and victim of the case does not support the prosecution story.
- 5.** The statements of the accused persons under section 313 of Cr.PC is dispensed with as there is 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:-

- (i) Whether in the year 2007, the accused persons, in furtherance of their common intention, committed criminal breach of trust in respect of the articles mentioned in the list of articles of the FIR with which the accused persons were entrusted by the informant, Sri Achyut Bhuyan and the accused persons converted the same for their own use and thereby committed an offence punishable under Section-406 of IPC, Read with Section-34 of IPC?
- (ii) Whether in the year 2007, the accused persons, in furtherance of their common intention, committed criminal intimidation by threatening to cause death to the informant, Sri Achyut Bhuyan and thereby committed an offence punishable under Section-506 of IPC, Read with Section-34 of IPC?

DISCUSSION, DECISION AND REASONS THEREOF:

- 8.** In the instant case, the prosecution side adduced only the evidence of PW-1 (informant-victim) to establish their case but he has not supported the prosecution story.
- 9.** The evidence of **PW1**, namely, Sri Achyut Bhuyan, who is the informant of the case reveals that he knows the accused persons, Debajit Baruah and Sri Mridul Borah. He deposed in his examination-in-chief that he lodged this case in the year 2007 due to misunderstanding. He deposed that due to a business transaction they had disputes. He deposed that they have amicably settled their dispute and he does not want to proceed

with the case by adducing evidence. In his cross-examination, he deposed that he has no allegation against the accused persons.

- 10.** The Learned Asstt Public Prosecutor prayed to close the PW evidence as the principal witness, who is the informant of the case has not supported the prosecution case. After going through the testimony of the informant, who is examined as PW1 in this case, it is seen that he has no allegation against the accused persons as the case was lodged due to misunderstanding. His testimony reveals that he does not want to proceed with the case by adducing evidence as they have amicably settled their disputes. There is nothing in the evidence incriminating the accused persons that they have committed an offence under section- 406/506/34 of IPC.
- 11.** Situated thus, in my considered opinion the prosecution side has failed to bring home the guilt of the accused persons under offence under section 406/506/34 of IPC as the informant of the case did not support the prosecution story.

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 Debajit Baruah and Sri Mridul Borah are acquitted of the offences under Section 406/506/34 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.

Given under my hand and seal of this court on this 28th day of March, 2019.

Sri Jayanta Kumar Saikia
Judicial Magistrate, First Class,

GR CASE NO: 1568 of 2012

Lakhimpur, North Lakhimpur

Typed by Steno Gr.III

Debashis Bhuyan

GR Case No-1568 of 2012

APPENDIX

PROSECUTION EXHIBITS:

NIL

DEFENCE EXHIBITS

NIL

PROSECUTION WITNESSES

PW-1: Sri Achyut Bhuyan (informant)

DEFENCE WITNESSES

NONE

MATERIAL EXHIBITS

NIL

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