

THE COURT OF SUB-DIVISIONAL JUDICIAL
MAGISTRATE (SADAR), NALBARI
P.R.C. CASE NO.- 1036/2019
U/S 420/384/34 OF THE IPC

STATE

VS.

1. SRI JOGESH KALITA
S/O LATE SARBESWAR KALITA
R/O PALLA ROAD
PS NALBARI
2. MD. INTAZ ALI
S/O MD. HUSSAIN ALI
R/O MALIKUCHI
PS NALBARI
3. SRI MONI BARMAN
S/O SRI DINESH BARMAN
R/O HARIPUR
PS NALBARI
4. SRI SATYAJIT TALUKDAR
S/O LATE DIGAMBAR TALUKDAR
R/O JAPORKUCHI
PS NALBARI

PRESENT:- KAUSHIK KAMAL BARUAH
SUB-DIVISIONAL JUDICIAL MAGISTRATE (SADAR)
AT NALBARI

APPEARANCES:- SMT. MONIKA CHAKRABORTY.....FOR STATE

JEHERUL ISLAM.....FOR ACCUSED

DATE OF EVIDENCE:- 07/01/2022.

DATE OF ARGUMENT:- 07/01/2022.

DATE OF JUDGMENT:- 07/01/2022.

JUDGMENT

Accused Jogesh Barman, Intaz Ali, Moni Barman and Satyajit Talukdar stood trial for offences punishable under sections 420/384/34 of the Indian Penal Code, 1860 (the IPC for short).

Material facts of the case as appears from the contents of the First Information Report (FIR for short), dated-09/03/2019, are as follows:- that, prior to 09/03/2019, above named accused persons were cheating drivers of small commercial vehicles under the banner "Nalbari District Saru Motor Gari Shramik Union, Bhakatpara Ward No-2, Registration No-2620/2015", and under the said banner the accused persons had been illegally and forcibly collecting money from unsuspecting drivers of small commercial vehicles in the name of parking fees.

On 12/03/2019, informant, Hemanta Kumar Deka, lodged a written FIR before the Officer-in-Charge (O/C for short) of Nalbari PS which was registered and numbered as Nalbari P.S. Case No.161/2019 u/s 468/420/384/34 of

the IPC. During the course of investigation, the investigating officer (I/O) visited the place of occurrence, recorded statements of witnesses u/s 161 of the Code of Criminal Procedure, 1973 (the Cr.P.C. for short), made a rough sketch map of the place of occurrence, seized certain articles, arrested the accused persons and released them on bail.

After completing the investigation, the I/O returned the case in Final Form for prosecution of the accused person u/s 420/384/34 of the IPC.

Court processes were issued and on their appearance the accused were allowed to go on bail. Copies of all relevant documents were furnished to the accused persons. Particulars of the offences u/s 420/384/34 of the IPC were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

Prosecution examined one (01) witness and closed evidence. Examination of the accused u/s 313 of the Cr.P.C. was dispensed with as nothing was deposed against them.

Heard arguments advanced by learned Assistant Public Prosecutor and learned defence counsel.

POINTS FOR DETERMINATION

- a) Whether accused persons, prior to 09/03/2019 at Bhakatpara Ward No-2 under Nalbari PS, in furtherance of their common intention cheated drivers of small commercial vehicles under the banner "Nalbari District Saru Motor Gari Shramik Union, Bhakatpara Ward No-2, Registration No-2620/2015", thereby dishonestly inducing them to deliver the accused persons money in the pretext of parking fees?
- b) Whether the accused persons, on the same day, time and place and in furtherance of their common intention committed extortion by putting drivers of small commercial vehicles in fear of injury and thereby inducing the drivers to deliver the accused persons money in the pretext of parking fees?

And, thereby the accused are liable to be punished u/s 420/384/34 of the IPC.

DISCUSSION, DECISION AND REASONS THEREON

In order to establish the allegations against the accused person, prosecution examined Hemanta Kumar Deka as PW1 and closed evidence.

PW1, Hemanta Kumar Deka, was the informant. His deposition is as follows:-

“I am the informant. I know the accused persons. Occurrence took place in the year 2019. I am a truck driver by profession. Accused person are also drivers of commercial vehicles. On the day of occurrence I had an argument with the accused persons at Bhakatpara, Nalbari town with respect to parking of vehicles and on misunderstanding I filed FIR against them. Ext.1 is the FIR and Ext.1(1) is my signature thereon. No occurrence took place as alleged in the FIR. I have no allegations against the accused persons and I have no objection if they are acquitted.

XXXXXXXXXX

Cross Examination declined by defence.”

Above stated narration of facts is all that the prosecution has in its armory against the accused persons. But, even a cursory glance at it demonstrates that the informant had not at all incriminated the accused persons of the offences for which they had been prosecuted. It is apparently clear from his testimony that the occurrence

took place on account of a misunderstanding on his part and not on account of any overt act as alleged by him in the FIR. In my considered view, prosecution has no evidence worth the name against the accused persons.

In a nutshell, prosecution had failed to prove the allegations against accused Jogesh Barman, Intaz Ali, Moni Barman and Satyajit Talukdar for the offences u/s 420/384/34 of the IPC in all respects.

The points for determination are, therefore, decided in the negative.

ORDER

As such, from the observation and discussion done hereinbefore, I arrive at the conclusion that the prosecution had failed to establish the allegations against accused Jogesh Barman, Intaz Ali, Moni Barman and Satyajit Talukdar for the offences u/s 420/384/34 of the IPC in all respects. As such, the accused are acquitted of the offences under the sections of law indicated above.

Accused persons be set at liberty forthwith. Bail bonds of the accused persons stands effective for next six months from today. The accused persons may obtain copy of the judgment but not without payment.

Seized articles, if any, be disposed of in due course.

Instant case is disposed of on contest.

Given under my hand and Seal of the Court this 7th
day of January, 2022.

Typed and corrected by me and every page bears my
signature.

(Kaushik K. Baruah)
Sub-Divisional Judicial
Magistrate (Sadar),
Nalbari.

THE COURT OF SUB-DIVISIONAL JUDICIAL
MAGISTRATE (SADAR), NALBARI
P.R.C. CASE NO.- 1036/2019
APPENDIX

1) Prosecution exhibits:-

Ext.1:- FIR

Ext.1(1):- Signature of Hemanta Kumar Deka

2) Prosecution witnesses:-

PW1:- Hemanta Kumar Deka

3) Defence exhibits.- NIL

4) Defence witnesses.- NONE

(Kaushik K. Baruah)
Sub-Divisional Judicial
Magistrate (Sadar),
Nalbari.