



							purpose of section 428 of IPC
A-1	Sri Mridul Jyoti Deka		11/10 /2017	U/S 471 of IPC	Acquitted	N/A	N/A

## APPENDIX-13

Date of offence	N/A
Date of FIR	05/10/2017
Date of charge-sheet	28/02/2018
Date of framing of charges	25/06/2019
Date of commencement of evidence	09/09/2019
Date on which judgment is reserved	N/A
Date of judgment	26/09/2022
Date of the Sentencing Order, if any	N/A

**(J U D G M E N T)**

1. The prosecution case sets into motion by filing a FIR by the informant, Sri Udayaditya Gogoi, A.D.C., Nalbari stating that one printing press namely M/S Bright Offset Press, Hajo Road, Nalbari participated in the tender process invited by office of the Deputy Commissioner, Nalbari vide NIT no NDP(PE)-

101/2017-18/4-5 dated 05/9/2017. As per terms and conditions of the said NIT, intending printing press should be registered with the Printing & Stationary Department, Govt. of Assam and submit a copy of Registration. During submission of tender papers by M/S Bright Offset Press, copy of certificate for renewal of registration with Printing & Stationary Department, Govt. of Assam was submitted. But on receipt of complaint in respect of the said certificate, the proprietor of M/S Bright Offset Press was directed to produce the original copy of the said document. Instead of submitting the original copy of certificate of Registration, the proprietor submitted a petition dtd. 03/10/2017 seeking 10 (ten) days time for submission of the same which creates doubt on the genuineness of the copy of the certificate of Registration of the press. Hence, informant has lodged this case.

- 2.** The Officer-in-charge, Nalbari Police station, on receipt of the Ejahar registered Nalbari P.S. Case No. 750/2017, under section 471 of IPC and endorsed the concerned I/O for investigation. After completion of the investigation, the concerned I/O submitted charge sheet against the accused Sri Mridul Jyoti Deka under Section 420/471 of IPC.
- 3.** In due course, the accused appeared before the court and the copies of relevant documents were furnished to him as per section 207 of CrPC. Having found a prima facie case against the accused person, the charge is framed, under Section 471 of IPC against the accused person, which is read over and

explained to him vide order dated 25/06/2019, to which he pleaded not guilty and claimed to be tried.

4. The prosecution side examined five (05) witnesses. The Learned Assistant Public Prosecutor prayed to close the PW evidence. The PW evidence is closed as per the submission of the Ld. APP.
5. The statement of the accused person under section 313 of Cr.P.C. is recorded wherein he took the plea of innocence and false implication. 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 the accused Sri Mridul Jyoti Deka subsequent to 05/09/17 at Nalbari fraudulently/dishonestly used as genuine the certificate for renewal of registration in respect of M/S Bright Offset Press, Hajo road, Nalbari during submission of tender papers invited by the Office of the Deputy Commissioner, Nalbari which he knew or had reason to believe at the time he used it to be a forged document or electronic record and thereby committed an offence punishable under section 471 of I.P.C?*

**EVIDENCES OF PWs:**

- 8.** PW-1, Sri Udayditya Gogoi deposed that on 05/10/2017, he was working as A.D.C at D.C Office, Nalbari. On that day he filed the FIR. A tender was called for printing of electoral rolls in connection with Panchayat Election of 2018. M/s Bright Offset Press also participated in the tender process. As per the terms and condition of the tender the party has to be registered with the Printing & Stationery Deptt. Govt. of Assam. On verification one public petition was received that the registration certificate of M/s Bright Offset Press is invalid and accordingly M/s Bright Offset Press was allowed 24 hours to submit the original papers for verification regarding their registration with the Printing & Stationery Deptt. Govt. of Assam. In response to their official letter, M/s Bright Offset Press prayed for 10 days time to submit the original papers. They could not wait for 10 days as Govt. had already fixed the dates for Printing of Electoral Rolls. They reverified the photocopy of the registration certificate of M/s Bright Offset Press submitted with the tender papers and found that the certificate was not in order. They brought the matter to the notice of Sri. Anant Lal Gyani, the then D.C Nalbari who advised them to file FIR and accordingly he filed the FIR at Nalbari P.S. Police recorded his statement. Ext 1 is the FIR and Ext 1(1) is his signature.
- 9.** During cross-examination PW-1 deposed that the tender papers were submitted by the participants in the tender box and the same was opened on the date & time fixed in the

tender in presence of all the participants and representatives along with other committee members notified by the D.C, Nalbari. The public complaint was not received on the date of opening the tender box. He does not remember after how many days of opening the tender box, the public complaint was received. The complaint was not filed by the co-participants. The photocopy of the complaint petition filed by one Nagen Majumdar was submitted to police. They had not traced out the complainant Nagen Majumdar. He does not know how Nagen Majumdar could obtain the official papers of their office. He does not remember the address of Nagen Majumdar. He denied defence suggestion that there is no person by the name of Nagen Majumdar. He denied defence suggestion that the complaint petition was manufactured by some officials of their department. The photocopy of certificate of renewal of registration of M/s Bright Offset Press, Nalbari was dated 17/02/17 and was signed by the Under Secretary to the Govt. of Assam, Printing & Stationery Deptt. He does not remember after how many days of opening the tender the work order was issued. They does not hand over back the tender documents to the participants. Even if no complaint was received prima facie, the photocopy of the certificate of renewal of registration of M/s Bright Offset Press is not acceptable. The photocopy of the registration certificate mentioned of renewal of registration issued vide letter no. PSG. 86/2017/40 dated 16/02/2017 for

the period of one year with effect from 11/02/17 to 10/02/18 and so the said certificate could not be issued again on 17/02/2017 and the signature of the issuing authority also appeared to be doubtful. He does not remember whether it was mentioned in the notice inviting tender that if documents were not found in order then FIR would be lodged. He denied defence suggestion that the photocopy of registration certificate was not submitted by the accused person. He denied defence suggestion that only to reject the tender of the accused, a fake document was manufactured by him and his officials. If there was any leakage of official documents, enquiry should be conducted against the person liable.

- 10.** PW-2, Sri Haricharan Barman deposed that he knows the informant and the accused person. A tender was called for printing of ballot paper and electoral rolls in connection with Panchayat Election of 2017. M/s Bright Offset Press Nalbari also filed tender. A complaint was received by the D.C. Nalbari from a person named Mazumder against M/s Bright Offset Press, Nalbari. The D.C. Nalbari forwarded the complaint to ADC Udayditya Gogoi. M/s Bright Offset Press was asked to produce the original registration certificate to which the proprietor sought for 10 days time. As per instruction of D.C. Nalbari ADC Udayditya Gogoi filed the ejahar against the proprietor of M/s Bright Offset Press, Nalbari. Police came to their office and recorded his statement

and seized some documents and took his signature. Exhibit 2 is the seizure list and exhibit 2(1) is his signature.

**11.** During cross-examination PW-2 deposed that he handled the files regarding the tender process and he was the custodian of the files. The tender box was opened in the presence of officers and the participants. The verification of the tender documents was not done publicly. He does not know the person by the name Mazumder who filed the complaint. The person named Mazumder is not a staff of their office. He does not know how the person named Mazumder could obtain the copy of registration certificate of M/s Bright Offset Press, Nalbari. He is not sure whether there is any file notings regarding the receipt of complaint by the D.C. Nalbari against M/s Bright Offset Press, Nalbari. He does not remember the documents seized by police.

**12.** PW-3, Sri Chandan Kr Dutta deposed that he heard the name of Mr. U. Gogoi, informant of this case. But he does not know him personally. He worked as ADC, Nalbari. He does not know the accused person who is present in the dock. The incident occurred in the year 2018. At that time he was on duty as Under Secretary, Printing and Stationery Department of Govt. of Assam, Dispur, Guwahati. As per Govt. rules, the printing press received a Registration Certificate from department of Printing and Stationery, Govt. of Assam and every year they have to renew the said certificate. After 2019 the provision for registration and renewal has been changed



and the Printing presses have to get the certificate of renewal after every 3 years. **MO-1**, photocopy of renewal certificate of Registration of Bright Offset Press, Nalbari. **MO-2**, photocopy of complaint petition of Nagen Mazumdar. **MO-3**, photocopy of application of proprietor of Bright Offset Press, Nalbari. **MO-4** is photocopy of application with original Registration Certificate of Bright Offset Press, Nalbari. (*The Ld. Defence counsel has objected for Exhibiting Mo-1, MO-2, MO-3 and MO-4 stating that all those documents, the prosecution side sought to exhibit are photocopies and not admissible as per Indian Evidence Act. The Ld. Defence counsel further submitted that these documents come to the category of neither Primary Evidence nor Secondary Evidence.*) Mo-1 photocopy of Certificate of Registration of Bright Offset Press, Nalbari contains a signature under the seal of Under Secretary, Printing and Press, Govt. of Assam. He doubts that it may be not his signature. **Exhibit MO-1 (A)** is the signature in question. At that time, he was holding the post of Under Secretary, Printing and Press, Govt. of Assam. Police has not recorded his statement in connection with this case nor collected his specimen signature.

- 13.** During cross-examination PW-3 deposed that he does not remember whether he saw the photocopy of certificate of renewal i.e. MO-1 before the day of his deposition or not. MO-2, MO-3 and MO-4 are not related to his department nor it bears his purported signature. He had

idea (prior knowledge) of the case as he visited once earlier occasion also in regard to this matter in DC office after receipt of the summon of this court. Prior to it, he had no knowledge of the case. He denied defence suggestion that he deposed in an irresponsible manner, as a public servant, holding an important post of Govt. of Assam by testifying that the signature in question may not be his, without any kind of verification. Court Question put forwarded to PW-3 was that does he knows whether the signature in the document in question is his or not ? In answer he replied that he does not know.

- 14.** PW-4, Sri Ramani Malakar deposed that he knows the informant Sri Udayaditya Gogoi. He was ADC, Nalbari holding the charge of personal branch of Nalbari DC Office and at that time he was working as Sr. Asstt. Of personal branch of Nalbari DC Office. He does not know the accused person present in the dock. **Exhibit P-2** is the seizure list and **Exhibit P-2(2)** is his signature. **MO-1**, photocopy of renewal certificate of Registration of Bright Offset Press, Nalbari. **MO-2**, photo copy of complaint petition of Nagen Mazumdar. **MO-3**, photocopy of application of proprietor of Bright Offset Press, Nalbari. **MO-4** is photocopy of application with original Registration Certificate of Bright Offset Press, Nalbari. (*The Ld. Defence counsel has objected for exhibiting MO-1, MO-2, MO-3 and MO-4 stating that all those documents, the prosecution side sought to exhibit are*

*photocopies and not admissible as per Indian Evidence Act. The Ld. Defence counsel further submitted that these documents come to the category of neither Primary Evidence nor Secondary Evidence.)* In the year 2019 (not sure), a police officer visited his office and he said that he seized some documents and he put his signature as seizure witness. He does not know anything about the incident.

**15. The Ld. APP prayed to declare the said witness as hostile witness and prayed to allow him to cross examine the said witness and after going through the case diary and the statement of the witness recorded u/s 161 CrPC and the prayer of the Ld. APP is allowed.** During cross-examination by Ld. APP, PW-4 stated that police recorded his statement. He denied defence suggestion that he stated to police in his statement recorded u/s 161 CrPC that one RTI activist Nagen Mazumdar filed one application in DC office complaining that the certificate submitted by Proprietor Bright Offset Press, namely Mridul Deka submitted a fake Certificate of Registration. He denied defence suggestion that he stated to police in his statement recorded u/s 161 CrPC that after verification of the document submitted by Mridul Deka, the photocopies are found doubtful and the accused was requested to furnish original certificate. He denied defence suggestion that he stated to police in his statement recorded u/s 161 CrPC that the accused requested for a period of 10 days to furnish the

original certificate. He denied defence suggestion that he stated to police in his statement recorded u/s 161 CrPC that when the accused failed to furnish the original certificate that police seized the photocopies of the document submitted by the accused. He denied defence suggestion that he acquaintance with the accused Mridul Deka and on his behalf he deposed falsely on the day of his deposition.

**16.** During cross-examination by Ld. Defence Counsel PW-4 stated that he is not an informant in this case. He has not received any document alleged to be furnished by the accused nor any complaint filed by the RTI activist Nagen Mazumdar. He has no knowledge of the alleged incident. The police took his signature without showing him the seized materials.

**17.** PW-5 (IO), SI Hemendra Singha deposed that on 5-10-2017, he was on duty as TSI at Nalbari Police Station. On that day, Inspector Badrul Islam, OC Nalbari Police Station received one FIR lodged by informant U. Gogoi, ADC, Nalbari against proprietor of M/S Bright Offset Press, Hajo Road near Art School Nalbari. On receipt of the same, the then OC registered Nalbari PS case no. 750/2017 u/s 471 of IPC and endorsed him for investigation of the case. He recorded the statement of the informant Udayaditya Gogoi, ADC, Nalbari u/s 161 CrPC at the Nalbari Police Station. He visited the place of occurrence i.e. the DC office Nalbari and prepared a sketch map. **Exhibit P-3/PW-5** is the sketch map and **Exhibit P-**

**3(1)/PW-5** is his signature. He seized the following documents i.e. i) photocopy of certificate of renewal of registration of Bright Offset Press, Nalbari issued by under secretary to the Govt of Assam, Printing and Stationery Department, ii) photocopy of complaint petition lodged by Nagen Mazumdar iii) photocopy of application of Proprietor of Bright Offset Press seeking 10 days time, iv) photocopy of application with original registration certificate of Bright Offset Press, at the place of occurrence which was produced by Haricharan Brahma, Sr. Asstt. DC Office, Nalbari by preparing seizure list in presence of available witnesses. **Exhibit P-2** is the seizure list and **Exhibit P-2(3)** is his signature. He recorded the statement of seizure witness Ramani Malakar u/s 161 CrPC at the place of occurrence. On 06-10-2017, he visited Bright Offset Press, Hajo Road and also visited the house of the accused and found him absent. On 09-10-2017, he sent a letter to Joint Secretary, Printing and Press Department, Govt. of Assam with photocopy of the original registration certificate of Bright Offset Press with a prayer for verification of the said documents. On 12-10-2017, the accused appeared at the police station with copy of anticipatory bail order of Hon'ble Court. He recorded his statement and released him on bail as per the order of the Hon'ble Court. On 25-02-2018, they received a letter vide memo no. PS-18/58/2017/P&S/67 dated Dispur the 28 December/2017, from C.K. Dutta, the then under Secretary,

Department of Printing and Press of Govt. of Assam stating that the certificate of renewal for registration in respect of M/ S Bright Offset Press, Hajo Road, Nalbari bearing number PSG 86/2017/53 dated 17-02-2017 has not been issued from their end, hence the same is fake one. On 28-02-2018, he submitted charge sheet no. 56/2018 dated 28-02-2018 u/s 420/471 of IPC against the accused Sri Mriduljyoti Deka. **Exhibit P-4/PW-5** is the charge sheet and **Exhibit P-4(1)/PW-5** is his signature. Vide Exhibit P-2 i.e. seizure list (MR No. 503/2017) the following documents were seized: **MO-1**, photocopy of renewal certificate of Registration of Bright Offset Press, Nalbari dated 17-02-2017. **MO-2**, photo copy of complaint petition of Nagen Mazumdar dated 22-09-2017. **MO-3**, photocopy of application of proprietor of Bright Offset Press, Nalbari dated 05-01-2017. **MO-4 (i)** is photocopy of application dated 03-10-2017, with original Registration Certificate i.e. **MO-4 (ii)** of Bright Offset Press, Nalbari. (*The Ld. Defence counsel has objected for Exhibiting Mo-1, MO-2, MO-3 and MO-4 (i) and MO-4 (ii) stating that all those documents, the prosecution side sought to exhibit are photocopies and not admissible as per Indian Evidence Act. The Ld. Defence counsel further submitted that these documents come to the category of neither Primary Evidence nor Secondary Evidence.*) **Exhibit P-5/PW-5** is the letter vide memo no. PS-18/58/2017/P&S/67 dated Dispur the 28 December/2017, from C.K. Dutta, the then under Secretary,

Department of Printing and Press of Govt. of Assam stating that the certificate of renewal for registration in respect of M/ S Bright Offset Press, Hajo Road, Nalbari bearing number PSG 86/2017/53 dated 17-02-2017 has not been issued from their end, hence the same is fake one.

- 18.** During cross-examination PW-5 (IO) stated that **Exhibit P-1/PW-1** i.e. the FIR does not disclose from whom the complaint in respect of the certificate in question was received by the informant. He came to know from the complainant while recording his statement u/s 161 CrPC that Nagen Mazumdar lodged the complaint in respect of the certificate in question to the informant U. Gogoi. He remembered that he made various attempt to trace the complainant Nagen Mazumdar, RTI activist but could not find any trace of him. He has not mentioned the fact that Sri Nagen Mazumdar, RTI activist who filed the complaint, on basis of which, informant lodged the FIR, could not be traced nor his statement could be recorded in connection with this case. All the seized documents are photocopies which are produced as MR. He could not say the reason due to which the photocopies were seized. There is no mention in the case diary that whether any endeavor was made or not for collecting the original from which purported photocopies were made. The case diary and the statement of the accused recorded u/s 161 CrPC does not reflect whether the original certificate of registration was sought from the accused to

produce in connection with this case or not. FIR i.e. Exhibit P-1 reveals that tender process was invited on 05-09-2017 by DC, Nalbari. Informant (PW-1) stated in his statement recorded u/s 161 CrPC that tender was called for printing electoral rolls in connection with Panchayat Election of 2018. He also further stated in his statement that along with the quotation, Bright Offset Press also submitted photocopy of certificate for renewal of registration. He has not collected the letter i.e. NIT no. NDP(PE)-101/2017-18/4-5 dated 05-09-2017 vide which tender process was invited as mentioned in the FIR i.e. Exhibit P-1/PW-1 in connection with this case. His investigation and the case diary does not reflect vide the aforesaid letter within what time the prospective parties had to submit the application for the tender. He does not have any knowledge what is the departmental process to be followed in respect of tender called for and the confidentiality had to be maintained. As per the photocopy of the complaint dated 22-09-2017, lodged by one Nagen Mazumdar i.e. **MO-2**, press registration certificate of Bright Offset Press, Nalbari was not up to date and false and fabricated in respect of the tender called by the notification dated 05-09-2017. He has not investigated that how before finalization of the tender and within the period of confidentiality how this confidential fact is leaked to the complainant Nagen Mazumdar who complained the DC. As per **Exhibit P-5 PW-5** i.e. letter dated 28-12-2017 from Under Secretary Govt of Assam, Printing and



Stationery Department, certificate for renewal of registration in respect of MS Bright Offset Press has not been issued from their end and hence the same is fake one. He has not visited department of Printing and Stationery in connection with this case nor he verified the issuing register or other registers of the said department in connection with this case in respect of the aforesaid letter i.e. Exhibit P-5. He denied defence suggestion that he has not investigated the case properly which was initiated only for the unlawful motive to deprive the accused to get the contract and thereby causing him wrongful law.

**DISCUSSION, DECISION AND REASONS THEREOF:**

- 19.** The instant case is lodged by Sri Udayaditya Gogoi, A.D.C., Nalbari. He lodged the FIR i.e., Exhibit 1, stating that one printing press namely M/S Bright Offset Press, Hajo Road, Nalbari participated in the tender process invited by office of the Deputy Commissioner, Nalbari vide NIT no NDP(PE)-101/2017-18/4-5 dated 05/9/2017. As per terms and conditions of the said NIT, intending printing press should be registered with the Printing & Stationary Department, Govt. of Assam and submit a copy of Registration. During submission of tender papers by M/S Bright Offset Press, copy of certificate for renewal of registration with Printing & Stationary Department, Govt. of Assam was submitted. But on receipt of complaint in respect of the said certificate, the proprietor of M/S Bright Offset Press was directed to produce

the original copy of the said document. Instead of submitting the original copy of certificate of Registration, the proprietor submitted a petition dtd. 03/10/2017 seeking 10 (ten) days time for submission of the same which creates doubt on the genuineness of the copy of the certificate of Registration of the press.

**20.** From the FIR i.e., **Exhibit 1**, it is clear that the crux of the matter is that there is allegation against the accused is that he forged the certificate for renewal of registration of M/ S Bright Offset Press, bearing No. PSG86/2017/53 dated 17/02/2017 during submission of tender papers. So, the charge is framed u/s 471 of IPC.

**21.** The essential ingredients of section 471 of IPC are:  
(1) The accused fraudulently or dishonestly used a document or electronic record as genuine;  
(2) The accused knew or had reason to believe that the document or electronic record was a forged one.

**22.** Now, in the present case, Mr. C.K. Dutta, Under Secretary Department of Printing and Press Govt. of Assam. had issued the document in question. However, the original document is not seized in connection with this case and I/O (PW-5) testifies that vide Exhibit P-2/PW-2 he seized the photocopy of the said document which is exhibited as MO-1 i.e., Photocopy of renewal of certificate of registration of Bright Offset Press, Nalbari.

**23.** The Ld. Defence Counsel said that MO-1, Mo-2, MO-3 and MO-4 are photocopies and not admissible as per law. From the evidence of PW-1 (informant), it is found that they issued an official letter to M/S Bright Offset Press praying for submission of original papers within 10 days for verification. But, the seized documents are the documents submitted by the accused or not, there is no plausible evidence.

**24.** Coming to the evidence of PW-3, Sri Chandan Kr Dutta, it is seen that the incident occurred in the year 2018. At that time he was on duty as Under Secretary, Printing and Stationery Department of Govt. of Assam, Dispur, Guwahati. As per Govt. rules, the printing press received a Registration Certificate from department of Printing and Stationery, Govt. of Assam and every year they have to renew the said certificate. After 2019 the provision for registration and renewal has been changed and the Printing presses have to get the certificate of renewal after every 3 years. **MO-1**, photocopy of renewal certificate of Registration of Bright Offset Press, Nalbari. **MO-2**, photo copy of complaint petition of Nagen Mazumdar. **MO-3**, photocopy of application of proprietor of Bright Offset Press, Nalbari. **MO-4** is photocopy of application with original Registration Certificate of Bright Offset Press, Nalbari. (*The Ld. Defence counsel has objected for Exhibiting Mo-1, MO-2, MO-3 and MO-4 stating that all those documents, the posecution side sought to exhibit are*

*photocopies and not admissible as per Indian Evidence Act. The Ld. Defence counsel further submitted that these documents come to the category of neither Primary Evidence nor Secondary Evidence.)* Mo-1 photocopy of Certificate of Registration of Bright Offset Press, Nalbari contains a signature under the seal of Under Secretary, Printing and Press, Govt. of Assam. He doubt that it may be not his signature. **Exhibit MO-1 (A)** is the signature in question. At that time, he was holding the post of Under Secretary, Printing and Press, Govt. of Assam. Police has not recorded his statement in connection with this case nor collected his specimen signature.

**25.** During cross-examination of PW-3 by Ld. Defence Counsel he stated that he does not remember whether he has seen the photocopy of certificate of renewal i.e., MO-1 before his day of deposition or not. During court question put forward to PW-3 that does he knows whether the signature in the document in question is his or not, he (PW-3) replied that he does not know.

**26.** Thus, from the deposition of PW-3 it is seen that his evidence fails to inspire the confidence of the court as he clearly stated that Mo-1 photocopy of Certificate of Registration of Bright Offset Press, Nalbari contains a signature under the seal of Under Secretary, Printing and Press, Govt. of Assam but he doubts that it may be not his signature though at that time, he was holding the post of

Under Secretary, Printing and Press, Govt. of Assam. **Exhibit MO-1 (A)** is the signature in question. Moreover, during cross-examination of PW-3 by Ld. Defence Counsel he stated that he does not remember whether he has seen the photocopy of certificate of renewal i.e., MO-1 before his day of deposition or not.

**27.** It is a cardinal principle of criminal jurisprudence that the guilt of the accused to be proved beyond reasonable doubt. In the present case, the prosecution case had received the first blow itself from the person who issued the said certificate as he himself not sure that it is his signature or not. The prosecution side must have adduced something in their support saying that the said signature is not signature of Mr. C.K. Dutta. In that case, regarding the proposition that the seized document is forged, the prosecution case itself produce blur evidence.

**28.** Also, coming to the evidence of PW-4, Sri Ramani Malakar, Supervisor Asst. Nalbari D.C. Office, who is the seizure witness, it is seen that he has no knowledge of the alleged incident. The police took his signature without showing him the seized materials. He has not received any document alleged to be furnished by the accused nor any complaint filed by the RTI activist Sri Nagen Mazumdar. He does not know the accused person nor does he know anything about the incident. Though the Ld. APP prayed to declare him hostile, but during cross-examination, prosecution

side failed to adduce anything in their favour from this witness.

**29.** PW-2 is Sri Haricharan Barman, Senior Assistant, D.C. Office, Nalbari. According to him a tender was called for printing of ballot paper and electoral rolls in connection with Panchayat Election of 2017. M/s Bright Offset Press Nalbari also filed tender. A complaint was received by the D.C. Nalbari from a person named Mazumder against M/s Bright Offset Press, Nalbari. The D.C. Nalbari forwarded the complaint to ADC Udayditya Gogoi. M/s Bright Offset Press was asked to produce the original registration certificate to which the proprietor sought for 10 days time. As per instruction of D.C. Nalbari ADC Udayditya Gogoi filed the ejahar against the proprietor of M/s Bright Offset Press, Nalbari. But during cross-examination PW-2 says that he handled the files regarding the tender process and he was the custodian of the files. The tender box was opened in the presence of officers and the participants. The verification of the tender documents was not done publicly. He does not know the person by the name Mazumder who filed the complaint. The person named Mazumder is not a staff of their office. He does not know how the person named Mazumder could obtain the copy of registration certificate of M/s Bright Offset Press, Nalbari.

**30.** Now, coming to the testimony of PW-1, Sri Udayditya Gogoi, the informant of this case it is seen that

during cross-examination PW-1 (informant) clearly says that the tender papers were submitted by the participants in the tender box and the same was opened on the date & time fixed in the tender in presence of all the participants and representatives along with other committee members notified by the D.C, Nalbari. The public complaint was not received on the date of opening the tender box. He does not remember after how many days of opening the tender box, the public complaint was received. The complaint was not filed by the co-participants. The photocopy of the complaint petition filed by one Nagen Majumdar was submitted to police. They had not traced out the complainant Nagen Majumdar. He does not know how Nagen Majumdar could obtain the official papers of their office. He does not remember the address of Nagen Majumdar.

**31.** From the evidence of PW-1 (informant) and PW-2 it is seen that they received a complaint petition by one Nagen Majumdar, but Nagen Majumdar was neither produced before police to record his statement nor produced by the prosecution side before the court. Hence, in this scenario, the prosecution side failed to produce the proper material to this court to appreciate the fact, on what basis the FIR is filed.

**32.** PW-5 (I/O), SI Hemendra Singha stated regarding the investigation of the case. During cross-examination he says that he came to know from the complainant while recording his statement u/s 161 CrPC that Nagen Mazumdar

lodged the complaint in respect of the certificate in question to the informant U. Gogoi. He remembered that he made various attempt to trace the complainant Nagen Mazumdar, RTI activist but could not find any trace of him. He has not mentioned the fact that Sri Nagen Mazumdar, RTI activist who filed the complaint, on basis of which, informant lodged the FIR, could not be traced nor his statement could be recorded in connection with this case.

**33.** From the materials on record it is found that only photocopies of the documents are produced before this court. No original documents are with the record to substantiate the claim of the prosecution side. Moreover, the prosecution side failed to produce Sri Nagen Majumdar, who is one of the vital witnesses, as on the basis of his complaint the FIR was lodged. Hence, the prosecution side failed to adduce cogent and trustworthy evidence against the accused person.

**34.** Moreover, PW-2 and PW-4 who are staff of DC Office and seizure witnesses clearly says that they do not know how the offence u/s 471 IPC is committed as alleged. PW-2 does not remember the documents seized by the police. PW-4 had not seen the seized documents at the time of seizure. Regarding forgery on the document, the evidence of PW-3 is blur. According to the prosecution story he issued the said certificate from which photocopies are made and seized as alleged. But, he himself not sure about the documents. PW-5 (I/O) clearly says he cannot say the reason due to



which the photocopies were seized and there is no mention in the CD that whether any endeavor was made or not for collecting the original from which purported photocopies were made. PW-5 (I/O) did not visit the department of printing and stationary in connection with this case nor has he verified the issuing register or other register of the said department. In this light, the document in question is the seized document or not is not clear.

**35.** Moreover, the allegation is that during the tender process, the accused submitted the document in question, but, no material is collected by the I/O during investigation regarding the tender process in which the accused has been alleged to have been submitted the forged document. There is no entry or official record produced to show the accused has submitted MO-1, MO-2, MO-3 and MO-4 during tender process. No ocular or documentary evidence is found in this regard. Further, I/O has not collected the letter vide which the tender process was invited. PW-2, Senior Asst. D.C. Office said that D.C. forwarded the complaint filed by Nagen Mazumdar to ADC Uddayditya Gogoi which sets the whole case into motion. Said Nagen Mazumdar is never traced out by the I/O nor known by any of the witnesses. Mr. Anant Lal Gyani, D.C., Nalbari who advised PW-1 (ADC) to file the FIR was not made a witness in this case. PW-4 another staff of DC office said he had no knowledge of the incident.

- 36.** The defence side argued that the evidence of witnesses clearly shows that during the tender process, the confidentiality is maintained. Then, how the complainant Nagen Mazumdar, whose identity could not be confirmed and traced, able to get access to any tender documents, even if submitted by the accused for argument sake, could not be explained by the DC office. It itself shows that this case is filed by the ADC on the basis of an unverified complaint filed by unidentified person for ulterior motive to remove the name of the accused from the competition of acquiring the tender.
- 37.** If the evidences marshaled by the prosecution side are appreciated as a whole, then, it is found that there are so many lacunas in the investigation and the evidence adduced by prosecution side is so much blur that it fail to corner the accused by proving his guilt beyond reasonable doubt.
- 38.** Situated thus, in my considered opinion the prosecution side has failed to bring home the guilt of the accused person under section-471 of IPC.

### **CONCLUSION**

- 39.** The prosecution side failed to prove its case that accused has committed an offence u/s 471 of IPC.

### **ORDER**

In the light of aforesaid discussions and reasons, it is seen that the prosecution side failed to prove the guilt of the accused person beyond reasonable doubt.

Accordingly, the accused Sri Mridul Jyoti Deka is acquitted from the offence under section 471 of IPC and he is set at liberty forthwith. The seized property (if any) to be disposed of as per law.

The bail bond of the accused person and his surety shall remain in force for a period of 6 months from today as per amended Cr.P.C.

**Given under my hand and seal of this court on this 26<sup>th</sup> day of September, 2022.**

Sri Jayanta Kumar Saikia  
Addl. Chief Judicial Magistrate  
Nalbari

**APPENDIX-14****LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES****A. Prosecution witness**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Sri Udayditya Gogoi	Informant
PW-2	Sri Haricharan Barman	Other witness
PW-3	Sri Chandan Kr Dutta	Other witness
PW-4	Sri Ramani Malakar	Other witness
PW-5	SI Hemendra Singha	Police witness

**B. Defence witnesses, if any: NOT APPLICABLE**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
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**C. Court witnesses, if any: NOT APPLICABLE**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b>
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		(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
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## LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS

### A. Prosecution:

Sr. No.	Exhibit Number	Description
1.	Exhibit 1	FIR
2.	Exhibit 2	Seizure list
3.	Exhibit P-3/PW-5	Sketch map
4.	Exhibit P-4/PW-5	Charge sheet
5.	Exhibit P-5/PW-5	Letter vide memo no. PS-18/58/2017/P&S/67

### B. Defence: NOT APPLICABLE

Sr. No.	Exhibit Number	Description
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### C. Court Exhibits: NOT APPLICABLE

Sr. No.	Exhibit Number	Description
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### D. Material Objects:

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1.	MO-1	Photocopy of renewal certificate of Registration of Bright Offset Press, Nalbari
2.	MO-2	Photo copy of complaint petition of Nagen Mazumdar
3.	MO-3	Photocopy of application of proprietor of Bright Offset Press, Nalbari
4.	MO-4	photocopy of application with original Registration Certificate of Bright Offset Press, Nalbari
5.	Exhibit MO-1(A)	Signature in question
6.	MO-4(i)	Photocopy of application dated 03-10-2017
7.	MO-4(ii)	Original Registration Certificate of Bright Offset Press, Nalbari

Sri Jayanta Kumar Saikia  
Addl. Chief Judicial Magistrate  
Nalbari

