

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,  
NALBARI**

Present : Imdad Ahmed, Chief Judicial Magistrate, Nalbari.

Date of Judgment – 30/09/2022

Case – PRC no. 60/2021

The case arose out of FIR lodged by informant Miss Ashma Begum, registered on 17/11/2020 vide Ghograpar P.S case no. 529 u/s 420/406/294/509/323/354 IPC under Nalbari District.

Complainant :	State of Assam Or Name of the complainant (Miss Ashma Begum)
Represented by	Mr. D. Talukdar (Ld. APP)
Accused	1. Md. Samsul Ali / A-1, S/o – Sahanur Ali, Village – Guwakuchi, PS – Ghograpar & Dist – Nalbari;
Represented by	Mr. Jahangir Alam (Ld. Defence Advocate)

Date of Offence	16/11/2020
Date of FIR	17/11/2020
Date of Charge sheet	28/11/2020 vide Charge sheet no. 300
Date of Framing of Charges	26/03/2021
Date of commencement of evidence	30/09/2022
Date on which judgment is reserved	N/A
Date of Judgment	30/09/2022
Date of the Sentencing Order, if any	N/A

## **J U D G M E N T**

### **PROSECUTION CASE:**

1. The prosecution case in brief as unfolded from the 'ejahar' dated 17/11/2020 filed by the informant Miss Ashma Begum is that on 30/06/2014 she opened a fixed deposit of Rs. 2 lakhs in Samannay Rural Development Society situated at her village Guwakuchi and the said amount attained its maturity on 30/07/2020. But the Sampadak of the said society namely Samsul Ali did not return Rs. 2,50,000/- which he took from her as loan on 01/06/2016 and in total did not return Rs. 4,50,000/- to her and when she demanded the accused to return her the said money, the accused scolded her over phone. On 16/11/2020 at about 2:15 pm, the accused called her to his

PRC no. 60/2021

shop at Guwakuchi to collect her money and when she reached, the accused armed with a dagger attempted to hit her and later the accused assaulted her and tore her wearing clothes. Hence the case.

2. The said 'ejahar' was received vide Ghograpar PS GDE no. 13 dated 17/11/2020 and later registered as Ghograpar PS case no. 529/20 u/s 420/406/294/509/323/354 I.P.C. After completion of investigation charge-sheet no. 300 dated 28/11/2020 was submitted against accused Samsul Ali u/s 420/406 I.P.C. Copy was furnished to the accused person. Charges u/s 420/406 IPC was framed, read over and explained to the accused person to which the accused pleaded not guilty and claimed to be tried.

### **3. POINTS FOR DETERMINATION**

(i) Whether the accused person on 16/11/2020 at village Guwakuchi under Ghograpar P.S, deceived the informant by fraudulently or dishonestly inducing her to deliver Rs. 4,50,000/- and thereby committed an offence punishable u/s 420 I.P.C?

(ii) Whether the accused person on the aforesaid date, time and place entrusted with Rs. 4,50,000/- belonging to the informant, dishonestly misappropriated or converted the same to his own use in violation of any legal contract, express or implied and thereby committed an offence punishable u/s 406 I.P.C?

4. **DECISION AND REASONS THEREOF:**

The prosecution examined the informant as PW-1. The defence declined to adduce any evidence. Finding no incriminating materials, the statement in defence of the accused person u/s 313 Cr.P.C was dispensed with. I have heard the argument advanced by learned counsel of both the sides and also perused the evidence available on record, my findings with reasons are as follows –

5. PW-1, Ashma Begum who is the informant deposed that accused Samsul Ali was the Secretary of Samannay Rural Development Society and she deposited an amount of Rs. 2 lakhs in the said society and the said amount attained maturity in the year 2020. The accused had also taken Rs. 2.5 lakhs as loan from her with promise to repay the same as and when demanded by her. On 16/11/2020 at about 2:15 pm, she went to the house of accused to demand repayment of her money and thereafter, a verbal altercation took place between her and the accused in the house of accused and later out of anger she filed this case. PW-1 deposed that after filing of the case, the accused entered into an amicable settlement with her and returned her money due from him as well from the society and as the accused has returned the money; she does not want to proceed with this case. Exhibit P-1 / PW-1 is the FIR and Exhibit P-1(1) / PW-1 is her signature.

6. This is a case under Section 420/406 IPC, where PW-1 who is the informant stated in her evidence that after

PRC no. 60/2021

filing of this case, the accused entered into an amicable settlement with her and returned her money due from him as well from the society and as such she does not want to proceed with this case. Now, PW-1 being the main witness did not support her own case and she did not state anything incriminating against the accused person and as such the guilt of the accused person could not be established by the prosecution. Hence, the accused person is hereby declared not guilty of the offence u/s 420/406 of the Indian Penal Code.

7. Considering the nature of evidence adduced by the prosecution, the accused Samsul Ali is hereby acquitted from the charges u/s 420/406 I.P.C. Bail bond is extended till the expiry of six months from today.

8. Judgment is pronounced in open court. Case is disposed of on contest.

9. Given under my hand and seal of this court on this 30<sup>th</sup> day of September, 2022.

Chief Judicial Magistrate  
Nalbari

**Accused Details**

Rank of the accused	Name of accused	Date of Arrest	Date of release on bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec. 428 Cr.P.C
A-1	Samsul Ali	Police notice was served	Police notice was served	420/406 IPC	Acquitted	N/A	N/A

Chief Judicial Magistrate  
Nalbari

**List of Prosecution / Defence / Court Witnesses**

A. Prosecution:

Rank	Name	Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other witness)
PW-1	Ashma Begum	Informant

B. Defence Witnesses, if any:

Rank	Name	Nature of evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other witness)
Nil		

C. Court Witnesses, if any:

Rank	Name	Nature of evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other witness)
Nil		

Chief Judicial Magistrate

Nalbari

**LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS**

A. Prosecution:

Sr. No.	Exhibit number	Description
1.	Exhibit P-1 / PW-1	Ejahar
2.	Exhibit P-1(1) / PW-1	Signature of informant

B. Defence:

Sr. No.	Exhibit Number	Description
Nil		

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
Nil		

D. Material Objects:

Sr. No.	Exhibit Number	Description
Nil		

Chief Judicial Magistrate  
Nalbari