

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE
SONITPUR, TEZPUR.**

Present: Dr. M Baruah
Chief Judicial Magistrate,
Sonitpur, Tezpur.

G. R. Case No. 1692/2008
U/s 379 IPC

State

Vs

Mohammed Munna

.....Accused

Appearance:

Counsel for the State : Sri N Das.

Counsel for the defense : Sri T. Das.

Charge framed on : 22-10-2009.

Evidence recorded on : 18-6-12, 15-10-12, 5-9-13, 12-12-14.

Argument heard on : 28-4-2014.

Judgment delivered on : 12-5-2014.

J U D G M E N T

1). The prosecution's case in brief is that, the informant Jamanuddin Ahmed filed an ejahar before the I/C, Kacharigaon OP on 26-9-08 stating that on that day at about 12 noon his black colour she goat was missing. He came to know that at about 12:30 p.m. some persons caught the accused on suspicion at Kamarchuburi Bus stoppage along with the stolen she-goat and handed him over to police. The informant went to the police station and identified his she-goat. The informant also came to know the name of the accused as Md. Munna.

2). Upon receive of the ejahar, the I/C, Kacharigaon OP made a GDE and forwarded the same to the O/C, Tezpur PS for registering a case. Accordingly, a case being Tezpur P S Case No. 831/08 was registered and started investigation. After investigation,

police filed charge sheet against the accused Mohammed Munna u/s 379 of IPC.

3). The accused appeared before the Court and faced trial. Copy of the prosecution documents furnished to the accused. After hearing learned counsel for both the sides, charge U/s.379 of IPC was framed and its particulars of offence were explained and read over to the accused. The accused pleaded not guilty and claimed to be tried.

4). Prosecution adduced evidence of four witnesses to prove the case. After close of prosecution evidence, statement of the accused u/s 313 Cr.P.C. recorded. Plea of the accused is total denial and adduced no evidence in his defence.

5). POINTS FOR DETERMINATION

I). Whether the accused, on 26-9-08 at about 12 noon dishonestly removed the she goat out of the possession of Jamanuddin Ahmed and without his consent?

Heard argument of the defense counsel and the Ld. Addl.P.P. Perused the materials on record.

6). Now it is to see whether the prosecution has been able to prove the above points beyond doubt.

7). DICISION, DISCUSSION AND REASONS THEREOF

PW-1 Md. Jamanuddin deposed that his black colour goat was stolen from the road at about 12.00 Noon. In the evening he got the goat which was recovered by Police. He lodged the ejahar. Ext-1 is the ejahar he filed. Police gave the goat in his zimma.

PW-2 Md. Riajuddin deposed that PW-1 is his father and he stated similar to that of his faher.

PW-3 Sri Bitu Sing stated that one day at about 12.00 noon he saw people gathering near Kamarchuburi Puja Mandap. He waited and the people told him that there has been theft of a goat. He did not notice the thief. Police came and seized the goat in his presence. He put his signature in the seizure list. Ext-2 is the seizure list and Ext-2(1) is his signature.

During cross examination he stated that he does not know the owner of the goat. He did not see the goat when police took his signature on the seizure list.

PW-4 Sri Murali Rai deposed that during Durga Puja a goat of Dadul Bhuyan was stolen. On that day at about 12.00 noon the thief was trying to put the goat in the bus. Then the public caught the thief at Kamarchuburi. The accused was later on handed over to police.

During cross examination he stated that police did not record his statement.

8). From the materials on record, I found that the prosecution has examined four out of six independent witnesses. The PW-4 stated that the public caught the accused while he was trying to put the goat in a bus. He did not say these things to the police because police did not record his statement. He does not know the owner of the goat. The PW-1, PW-2 and PW-3 do not know about the thief. They could not say if the accused was caught by the people while he was trying to remove the goat by putting it in a bus. The prosecution has failed to produce any of the witness who have caught the accused while the accused was trying to remove the goat in a bus. The witnesses have failed to prove that the accused had removed the goat from the possession of its owner. Under such circumstance, I found that the prosecution has failed to prove the allegation against the accused beyond doubt.

9). ORDER

Considering the facts and circumstance of the case, I found that the prosecution has failed to prove the case against the accused u/s 379 IPC beyond reasonable doubt. As a result the accused is acquitted and set at liberty. His bail bond stands cancelled. The seized goat is to be returned to its owner.

10). The judgment is prepared and typed by me.

11). Set my hand and seal of this Court on the 12th day of May, 2014.

(Manash Baruah)
Chief Judicial Magistrate,
Sonitpur, Tezpur.