

DISTRICT: SONITPUR

IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS,
SONITPUR, TEZPUR

G.R. Case No. 1867/2009

U/Ss. 454/380 IPC

MD. RIBUL ALI
S/O LATE KAMALUDDIN
VILL: SAIKIA CHUBURI MUSLIM GAON
P.S. TEZPUR
DISTRICT: SONITPUR
ASSAM

- ACCUSED

VERSUS

STATE OF ASSAM

- PROSECUTOR

PRESENT: JAYASHREE BORA, JUDICIAL MAGISTRATE FIRST
CLASS, SONITPUR, TEZPUR

ADVOCATE FOR THE PROSECUTION: Sh. Ashok Sharma, APP

ADVOCATE FOR THE ACCUSED: Sh. Amiya Kumar Saikia,

Sh. Dibash Saikia

CHARGE FRAMED ON: 02/08/10

EVIDENCE RECORDED ON: 31/03/12

ARGUMENT HEARD ON: 05/05/15

JUDGMENT DELIVERED ON: 11/05/15

JUDGMENT

1. The prosecution in this case was launched by the lodging of the ejahar by the informant Hafiza Begum at Kocharigaon O.P. on 07/10/09 to the effect that on the same day at around 8 AM, she witnessed Md. Nazir Ali, a native of her village, stealing her golden ornaments after opening her closet. On seeing her, he fled away and was caught by the villagers. She found that her golden necklace, ring and earrings were missing from her closet. On being interrogated, Nazir Ali disclosed that he had handed over the ornaments to the accused. The accused denied receiving the same. The villagers handed over both of them to the police.
2. On receipt of the FIR, the police registered Tezpur P.S. case No. 963/09 under sections 457/380 IPC and conducted investigation into the matter. On completion of investigation, the police laid charge sheet against two accused- Ribul Ali and Nazir Ali under sections 454/380 IPC.
3. In due course the accused entered their appearance in court. Accused Nazir Ali was declared as a juvenile in conflict with law and he was forwarded to the Juvenile Justice Board, Sonitpur, Tezpur for trial. Copies of relevant documents were furnished to the accused in accordance with Sec. 207 CrPC. Formal charge u/ss. 454/380 IPC was framed against the accused. The same was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.
4. During trial, the prosecution examined one witness and closed its evidence. Statement of the accused u/s. 313 CrPC was recorded. Defence did not adduce any evidence.
5. Upon hearing both the parties and perusal of the records, the points for determination have been formulated as follows-
 - (i) Whether the accused on 07/10/09 at around 8 AM, committed lurking house trespass by entering into or remaining in the house in the possession of the complainant in order to the committing

of the offence of theft and thereby committed an offence punishable under Sec. 454 IPC?

(ii) Whether the accused on the aforesaid day and time, committed theft in the house of the informant and thereby committed an offence punishable under Sec. 380 IPC?

6. I have heard the learned counsels on both sides and have gone through the evidence on record which is outlined below.

APPRECIATION OF EVIDENCE

7. The informant of the case testified as PW1. She identified Exhibit 1 as the ejahar and Exhibit 1(1) as her signature. Going through her evidence it is seen that she has not stated anything implicating the accused of the commission of any offence. In fact, the name of the accused surfaces nowhere in her testimony. There is not even a whisper in her deposition implicating the accused of the allegations that have been set forth against him in Exhibit 1. Situated thus, I am inclined to pronounce the accused clear of all the imputations against him.

8. Accordingly it is held that the prosecution has failed to prove beyond reasonable doubt that the accused Md. Ribul Ali has committed the offences punishable under sections 454/380 IPC. As such the accused is acquitted of the charges under sections 454/380 IPC and he is set at liberty forth with.

The bail bond of the accused and his surety shall remain in force for six months from today in compliance with Sec. 437-A, CrPC.

The judgment is typed and prepared by me.

Given under my hand and the seal of this court on this 11th day of May, 2015 at Tezpur.

Jayashree Bora
Judicial Magistrate First Class
Sonitpur, Tezpur

APPENDIX

PROSECUTION EXHIBITS:

Exhibit 1- *Ejhar*

DEFENCE EXHIBITS:

NONE

PROSECUTION WITNESSES:

PW1- Hafeza Begum

DEFENCE WITNESS:

NONE

Jayashree Bora
Judicial Magistrate First Class
Sonitpur, Tezpur