

DISTRICT: SONITPUR

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

G.R. Case No. 2054/2010
U/Ss. 447/427/385 IPC

SH. DIMBESWAR GHATAK

S/O MOHIRAM GHATAK

VILL: RANGAJAN

P.S: TEZPUR

DISTRICT: SONITPUR

ASSAM

- ACCUSED

VERSUS

STATE OF ASSAM

- PROSECUTOR

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

ADVOCATES APPEARED

FOR THE PROSECUTION: Sh. Ashok Sharma, APP

FOR THE ACCUSED: Sh. Pulin Bishwas

OFFENCE EXPLAINED ON: 19/09/11

EVIDENCE RECORDED ON: 02/05/15

ARGUMENT HEARD ON: 02/05/15

JUDGMENT DELIVERED ON: 08/05/15

JUDGMENT

1. The factual matrix of the prosecution case, as revealed from the *ejahar*, is that on 18/10/10 at around 8 PM, the accused, armed with a sharp weapon, entered the tea garden of the informant and without any rhyme or reason, slashed away around 150 to 200 trees. He also intimidated the guard and the employees of the tea garden and threatened to kill them if they did not move out of the tea garden on the very next day. A few days before the incident, the accused also allegedly demanded cash from the informant which was refused by the informant. As per the allegations in the *ejahar*, on the day of the incident, the accused broached about the matter regarding the demand for cash and threatened that if his demand is not fulfilled, he would wreak havoc by slashing more trees as well as take the life of the informant.

2. In connection with the aforesaid incident, the informant lodged an *ejahar* at Borghat O.P. on 19/10/10. On receipt of the FIR, the police registered Tezpur P.S. Case No. 970/10 u/ss. 447/427/386 IPC and conducted investigation into the matter. On completion of investigation, the police laid charge sheet against the accused u/ss. 447/427/385 IPC.

3. In due course the accused entered his appearance in response to the process issued. Copies of relevant documents were furnished to the accused in accordance

with Sec. 207 CrPC. Substance of accusations u/ss. 447/427/385 IPC were 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, exhibited one document and closed its evidence. On the closure of the prosecution evidence, the statement of the accused was recorded u/s. 313 CrPC. Defence chose not to 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 18/10/10 at around 8 PM, committed criminal trespass by entering into the tea garden of the informant with intention to commit an offence or to intimidate or insult or annoy the informant and thereby committed an offence punishable under Sec. 447 IPC?

(iii) Whether the accused, on the aforesaid day and time, committed mischief by causing wrongful loss or damage to the property of the informant valued at more than Rs. 50, and thereby committed an offence punishable under Sec. 427 IPC?

(iii) Whether the accused, on the aforesaid day and time, put the informant in fear of injury to his person, in order to commit extortion and thereby committed an offence punishable under Sec. 385 IPC?

Discussion, Decision and Reasons for Decision

6. I have gone through the evidence on record and heard the learned counsels on both sides and I shall now discuss and decide the points formulated.

7. Testifying as PW1, the informant deposed that he knows the accused standing in the dock. He resides close to his house at Rangajan. Around five years ago from the date of his deposition, at around 8 PM-9 PM, he received information to the effect that somebody had slashed some of the trees of his tea garden. On the next day when he visited the place of occurrence, people from the neighbourhood told him that the accused had committed such act. The accused was also present there and when he was asked about the occurrence, he got into a verbal altercation with PW1 and the others and for that reason PW1 stated to have lodged a case against the accused.

8. In his cross examination PW1 stated that he lodged the case against the accused on the basis of suspicion. He does not have any grievances against the accused. He does not have any objection if the accused is acquitted.

9. Scanning the evidence of the solitary prosecution witness, manifest it is that there is no substantial evidence on record to sustain conviction of the accused for the offences for which he is standing trial. In his cross examination PW1 has categorically stated that he had lodged the case against the accused on the basis of suspicion. The prosecution has thus failed to prove beyond reasonable doubt that the accused has committed the offences punishable u/ss. 447/427/385 IPC. As such the accused is acquitted of the charge u/ss. 447/427/385 IPC and he is set at liberty fort with.

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

Case is disposed of on contest.

Given under my hand and the seal of this court on this 8th day of May, 2015 at Tezpur.

Jayashree Bora
Judicial Magistrate First Class
Sonitpur, Tezpur

APPENDIX

PROSECUTION EXHIBITS:

Exhibit 1: *Ejaha*r

DEFENCE EXHIBITS:

NONE

PROSECUTION WITNESS:

PW1- Sh. Chandan Chetry

DEFENCE WITNESS:

NONE

Jayashree Bora
Judicial Magistrate First Class
Sonitpur, Tezpur