

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, TEZPUR

G.R Case No.779/2013

Under Section- 419/420 of I.P.C.

State Prosecutor

-vs-

Md. Siraj Ali
S/O- Late Sadar Ali
Vill: Bhojkhowa Chapori
P.S: Tezpur
District: Sonitpur
..... Accused person

Present

**JUHI GOGOI, B. Sc, LL.M, A.J.S.
JUDICIAL MAGISTRATE FIRST CLASS,
Tezpur::Sonitpur**

For the Prosecution :-Mr. A. K. Sahani, Ld. A.P.P.
For the Defence :-Mr. Debasish Bora, Ld. Advocate.
Charge framed on :-11.02.2015.
Date of Evidence :-21.04.2015, 26.04.2018 & 16.03.2019
Date of Argument :-24.04.2019
Date of Judgment :-06.05.2019

JUDGMENT

1. The factual matrix of the prosecution case as revealed from the complaint petition lodged by the informant Md. Jiabur Rahman before the Ld. Chief Judicial Magistrate, Sonitpur at Tezpur, is that the accused person, namely, Md. Siraj Ali had stood as a bailor for one Md. Sahidul Islam in connection with Tezpur PS Case No. 885/2012 by showing false identification in the name of Md. Suruj Ali who is a handicap and the complainant came to know about it when he took out

certified copies of the bail bonds. It is stated that the accused person has fraudulently committed cheating. Hence, this case.

2. On receipt of the complaint, the Ld. Chief Judicial Magistrate, Sonitpur forwarded the same to the O/C, Tezpur PS for registering a case, investigating and submit report in final form. The O/C of Tezpur PS on receiving the complaint petition, registered the same as Tezpur Police station Case No-413/13 under section-419/420 of I.P.C and investigation was done by the investigating officer. On completion of the investigation, the investigating officer of this case submitted Final Form against the accused person, namely, Md. Siraj Ali u/s- 419/420 of I.P.C vide Final Form No.135/14 dated 18.04.2014.

3. On submission of the Final Form, my Ld. Predecessor has taken cognizance of offence u/s-419/420of I.P.C against the accused person and summons was issued against him. On appearance of the accused person, copy was furnished to him and both the sides were heard on the point of charge and on consideration of all, the charge of offence u/s- 419/420of IPC was framed against the accused person by my Ld. Predecessor and the same was read over and explained to him, to which he pleaded not guilty and claimed to be tried.

4. In the course of trial, the prosecution side has examined only three witnesses including the informant in support of this case. The accused person was examined under section 313 CrPC; the defence plea was of total denial, defence chose not to adduce any evidence in support of their case.

5. **Points for determination:**

a) Whether the accused person had cheated the Ld. Chief Judicial Magistrate, Sonitpur pretending to be Suraj Ali and thereby fraudulently or dishonestly inducing delivery of property namely allowing bail bond by Ld. Chief Judicial Magistrate intentionally induced the said Ld. Chief Judicial Magistrate to do or omit to do some act namely allowing bail bond which caused damage or harm to said

Ld. Chief Judicial Magistrate in mind, reputation or property and thereby committed the offence punishable u/s-419 of I.P.C?

b) Whether the accused person had cheated Suraj Ali by dishonestly inducing him to deliver the landed document belonging to Suraj Ali and thereby committed the offence punishable u/s-420 of I.P.C?

ARGUMENT

I have heard arguments from both sides at length. The Ld. Counsel for the accused person submitted that there is no evidence available on record to establish the guilt of the accused person as no independent witnesses have supported the case of the prosecution. The evidence of the interested witnesses are different and vary with each other and there are contradictions in the evidence of witnesses; as such the accused person needs to be acquitted. On the other hand, Ld. APP submitted that prosecution has successfully established the offence against the accused person beyond all reasonable doubt; as such the accused person needs to be convicted.

DISCUSSION, DECISION AND REASONS THEREOF:-

6. In the present case in hand, the main allegation is that the accused Md. Siraj Ali stood as a bailor for the accused persons in another case, lodged by the complainant of this case by producing land documents which belong to Md. Suruj Ali who is a person suffering from disability.

7. Out of the three witnesses examined by the prosecution, **PW-2 is one who is not at all aware of the case.** PW-3, who is the Gaon Burah clearly stated during his cross examination that **it is not the accused, who went to bring the "Gaon Burah" certificate from him.** He deposed that it is Sabdul Sheikh who went to bring the certificate in the name of the accused.

8. PW-1, who is the informant stated that the accused Md. Siraj Ali stood as a bailor by producing documents of his brother Suraj Ali, who is a handicap. He stated that the accused stood as a bailor by introducing him as Suraj Ali and by cheating. He stated that according to Suraj Ali the accused took the land documents from him by stating that it will be required for applying loan. During cross examination, PW-1 stated that Suruj Ali is still alive and is of 50-60 years old. He denied the allegation that the accused has not forged the documents of Suruj Ali.

9. Thus, it is seen that nothing fruitful has come out from the evidence of PW-1 so as to convict the accused u/s- 419/420 of IPC. There is also no any supporting evidence to show that there was deception by the accused, who fraudulently or dishonestly induced the complainant and cheated him by pretending to be some other person. Moreover, the prosecution failed to examine Suruj Ali who would have been able to describe the incident in a better way.

10. In the light of the above discussion, in my considered opinion, the prosecution has failed to prove the case against the accused person.

ORDER

11. Hence, considering the above discussions, the accused person, namely, Md. Siraj Ali is found not guilty of the alleged offence u/S-419/420 of I.P.C and he is **acquitted accordingly**.

12. The bail-bonds executed in favour of the accused person is extended for a further period of six months from this date as per Section- 437(A) of CrPC.

13. Pronounced by me in this open Court, on this the 06th day of May, 2019 and given under my hand and seal of this court.

JUHI GOGOI
JMFC, TEZPUR

Ms. Juhi Gogoi
JMFC, Tezpur, Sonitpur

GR- 779/2013

APPENDIX

PROSECUTION WITNESSES

1. PW 1 :- Md. Jiabur Rahman, the informant
2. PW 2 :- Md. Jonab Ali
3. PW 3 :- Md. Saidul Haque

PROSECUTION EXHIBITS.

1. Exhibit –1 :- Complaint Petition
2. Exhibit – 1(1), 1(2) :- Signatures of the informant

DEFENCE WITNESSES

NONE.

DEFENCE EXHIBITS

NIL.

**JUHI GOGOI
JMFC, TEZPUR**