

IN THE COURT OF JUDICIAL MAGISTRATE

FIRST CLASS,

GOHPUR, SONITPUR

PRC Case No. 192/19

**Under Sections 468, 420, 506 read with Section 34,
Indian Penal Code**

STATE OF ASSAM

.....**PROSECUTION**

-VERSUS-

1. Mr. NEPOLIAN PATIRI

S/O Mr. ARJUN PATIRI

VILL: RANGAMURI

GOHPUR,

BISWANATH

2. Mr. PRAKASH DOLEY

S/O Lt. NAGEN DOLEY

VILL: NATUN DHANDI

GOHPUR,

BISWANATH

3. Mr. JANAK PATIRI

S/O Lt. JIBAN PATIRI

VILL: RANGAMURI

GOHPUR,

BISWANATH

4. Mr. PLABAN BORDOLOI

S/O Mr. TANKESWAR BORDOLOI

VILL: BAMUNGAON

GOHPUR,

BISWANATH

5. Ms. RINITA DOLEY

W/O Mr. PRAKASH DOLEY

VILL: NATUN DHANDI

GOHPUR,

BISWANATH

.....**ACCUSED PERSONS**

PRESENT: Mr. RAJ SEKHAR DUARA, JUDICIAL MAGISTRATE
FIRST CLASS, GOHPUR

ADVOCATE FOR THE PROSECUTION: Ms. SANTANA
BHUYAN, A.P.P

ADVOCATES FOR THE ACCUSED : Mr. DEBOJIT
DUTTA
Mr. PANKAJ
BORA

CHARGE FRAMED ON:	07.03.20
EVIDENCE RECORDED ON:	16.12.21,23.12.21
ARGUMENTS HEARD ON:	23.12.21
JUDGMENT DELIVERED ON:	06.01.22

JUDGMENT

FACTUAL SCENARIO

1. The Prosecution's case can be surmised as: one Mr. Chiranjib Mili had filed a complaint which this court had forwarded to the Officer-in-charge of Gohpur P.S. for registration of a police case, wherein he alleged that the accused persons acting in collusion and after taking advantage of his ignorance, opened a fraudulent bank account in his name and diverted the money which he was entitled to under the Govt. sanctioned scheme for home construction for the needy and utilized the money themselves. Hence, this case.

INVESTIGATION BY POLICE AND CHARGESHEET

2. On receipt of the complaint forwarded by this Court, Officer-in-charge of Gohpur P.S registered an FIR dated 03.03.2015 as Gohpur P.S. No. 49/15 under Sections 409, 406, 420, 468, 506 read with Section 34 of the Indian Penal

Code and initiated investigation into the matter. On completion of such investigation, the police submitted charge-sheet against the accused persons, Mr. Nepolian Patiri, Mr. Prakash Doley, Mr. Janak Patiri, Mr. Plabon Bordoloi and Ms. Rintia Doley under Sections 409, 406, 420, 506 read with Section 34 of the Indian Penal Code.

APPEARANCE OF THE ACCUSED AND TRIAL

3. In due course, the accused persons entered their appearance in response to the process issued. Copies of the relevant documents stipulated under section 207, Cr.PC were furnished to them. Subsequently, formal charge under Sections 420, 468, 506 read with Section 34 of the Indian Penal Code was framed and its particulars were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

4. During trial, in support of their case, the prosecution examined 2 (two) witnesses and exhibited 1 (one) document after which prosecution submitted for closure of its evidence and accordingly, evidence for prosecution was closed. Since the aforementioned witnesses did not bring forth any incriminating materials against the accused persons in their depositions, the statements of the accused persons as mandated by Section 313, Criminal Procedure Code were

dispensed with due to lack of sufficient materials. Defense did not adduce any evidence.

POINTS FOR DETERMINATION

5. Upon hearing both the parties and on perusal of the case record, the following points for determination have been formulated by this court to arrive at a definite finding.

- i. Whether the accused persons, on or about the 19th day of January, 2015 at Noubil, in furtherance of common intention, cheated the informant by dishonestly inducing him to deliver money and thereby committed an offence punishable under Section 420 read with Section 34, I.P.C.?**
- ii. Whether the accused persons on or about the same, date and place, in furtherance of common intention, forged a bank account form with the knowledge of the holder for the purpose of cheating and thereby committed an offence punishable under Section 468 read with Section 34, I.P.C.?**

iii. Whether the accused persons on or about the same, date and place, in furtherance of common intention, committed criminal intimidation by threatening to kill the informant and thereby committed an offence punishable under Section 506 read with Section 34, I.P.C.?

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

EVIDENCE

7. P.W.1, Mr. Birala Milli had deposed that the incident had happened around 3-4 years back. There was some issue related to a Yojana for which the Informant had filed this case against the five accused. He concluded by stating that he does not know any more about the case or why it was filed.

8. P.W.2, Mr.Chiranjib Mili, the informant, has deposed in his examination-in- chief that that he had lodged the F.I.R. which is Exhibit-1 and his signature over the same is Exhibit 1(1). He deposed in his testimony that he was entitled to receive a house under a Govt. scheme. He stated that he had filed this case against the accused out of suspicion when he did not receive the said house. But he had subsequently

received the house and has no issues with any of the accused persons. He adds that they have amicably resolved their differences at present and that no such incident as was originally alleged had happened. He lastly expressed his desire that he wants to put an end to the proceedings of this case and wants the accused persons to be acquitted from this case.

DISCUSSION, DECISION AND REASONS THEREOF

9. After a thorough deliberation upon the evidence of the witnesses and all other materials available on record, it transpires that there are no incriminating materials to constitute an offence which is punishable under Sections 420, 468, 506 read with Section 34 of the Indian Penal Code. It is also imperative to acknowledge that the prime witness, who is the informant himself, stated nothing incriminatory against the accused persons. Furthermore, it is pertinent to assert that the prosecution has failed in establishing the guilt of the accused persons beyond reasonable doubt which is the standard of proof in every criminal proceeding. In light of the same and after careful consideration of all the materials on record, the accused persons are found not guilty for the aforesaid offences. Situated thus, the accused persons, Mr. Nepolian Patiri, Mr. Prakash Doley, Mr. Janak Patiri, Mr. Plabon Bordoloi and Ms. Rintia Doley are hereby **acquitted** from this case and set at liberty forthwith.

10. The bail bonds of the accused persons and their sureties shall remain in force for a period of 6 months from today in compliance with Section 437 (A), Criminal Procedure Code.

11. The Case accordingly stands disposed of.

12. The judgment is pronounced in open court in presence of the counsel for the accused persons and given under my hand and seal of this court on this 6th day of January, 2022 at Gohpur.

Typed by me

(Raj Sekhar Duara)
Judicial Magistrate First Class,
Gohpur, Sonitpur

APPENDIX

PROSECUTION EXHIBIT:

Exhibit 1: FIR dated 03.03.2015

DEFENCE EXHIBIT: NONE

PROSECUTION WITNESSES:

P.W.1- Mr. Biral Milli

P.W.2- Mr. Chirangi Milli

DEFENCE WITNESS: NONE

(Raj Sekhar Duara)
Judicial Magistrate First Class,
Gohpur, Sonitpur