

IN THE COURT OF SUB-DIVISIONAL JUDICIAL MAGISTRATE,  
SONITPUR, TEZPUR

GR. CASE NO. 2278/ 2012

U/S- 457/380 IPC

State

V.

Md. Intaz Ali

Present before : Kumari Arti, SDJM(S), Sonitpur, Tezpur  
For Prosecution :Sri. Rajen Kr. Goswami.  
For Defence : Sri. Pulin Biswas.  
Date of Evidence :30.01.18.  
Date of argument : 13.03.2020, 30.05.2020.  
Date of Judgment : 30.05.2020.

**JUDGMENT**

1. Case of the prosecution in brief is that on 14.09.12 i.e. Friday at about 7 pm accused took away one mobile phone (Model: G-5) (approx. price- Rs.12,000/-) by opening door of the informant's house.

**Compliance of Sec- 207 Cr.P.C.**

2. Copies of relevant documents were furnished to the accused in accordance with Sec-207 Cr.P.C.

**Particulars of offences**

3. During trial the particulars of offences u/s- 457/380 Indian Penal Code were read over and explained to the accused to which accused pleaded not guilty and claimed to face trial.

**Evidence Adduced**

4. Prosecution has examined one witness. Examination u/s-313 Criminal Procedure Code is dispensed with as there was no incriminating material in the examination of the vital witnesses.

**Points for determination**

5. (i) Whether the accused person, on 14.09.12 at about 7 pm, had committed house breaking at night in order to commit theft in the house of the informant and thereby committed offence u/s 357 IPC ?

(ii) Whether the accused person, on the same day, place and time, had committed theft of mobile from the dwelling house of the informant and thereby committed offence u/s 380 IPC ?

**Discussion, Decision and Reasons thereof**

6. PW1 Sri. Dhanapati Baskata, (informant) has stated in course of his deposition that he lodged this case against Md. Intaz Ali who is his neighbor. He also stated that out of misunderstanding he had lodged this case against the accused and he has no objection if the accused is acquitted from this case.

His cross-examination was declined.

7. PW2, Sri. Mohan Samlagai has recognized both the accused and the informant as his neighbor. He stated in course of his deposition that the instant case was lodged out of misunderstanding and both the accused Intaz Ali and the informant Sri. Dhanapati Baskata have amicably settled the matter.

8. On discussion of witnesses examined by the prosecution it becomes clear that accused cannot be held guilty for the commission of offence as evidence on record was

found to be insufficient. Furthermore, informant has resolved her dispute with the accused. Therefore, prosecution failed to establish its case beyond reasonable doubt.

9. My discussion above propels me to decide both the points for determination in negative. Accordingly the accused person is held not guilty for commission of the offences punishable u/s- 457/380 of Indian Penal Code.

**ORDER**

10. Accused, Intaz Ali is acquitted of the offence punishable u/s- 457/380 Indian Penal Code and is set at liberty.

11. The bail bond shall be in force for six months from the date of the judgment delivered.

12. Given under my hand and seal of this court on 30<sup>th</sup> day of May, 2020.

KUMARI ARTI  
SDJM(S), SONITPUR, TEZPUR

**APPENDIX**

**PROSECUTION EXHIBITS:**

Ext.1 is the FIR. Ext-1 (i) is sign of PW1

**DEFENCE EXHIBITS:**

NIL

**WITNESSES FOR THE PROSECUTION:**

PW1 Sri. Dhanapati Baskata

PW2, Sri. Mohan Samlagai

**WITNESSES FOR THE DEFENCE:**

NIL

Smti. KUMARI ARTI

SDJM(S), SONITPUR, TEZPUR