

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE  
SONITPUR, TEZPUR, ASSAM

G.R 2510/17

U/S 379 IPC

State of Assam

Vs

**Sri Baleswar Yadav** .....**Accused**

Present : Sri. Angshuman Bhattacharjee  
Addl. Chief Judicial Magistrate

For Prosecution : Sri. P. Baruah, Learned Addl. Public Prosecutor.

For the accused : Sri SK Singh, Ld Defence Counsel

Evidence recorded on : 12-03-2021, 27-12-2021

Arguments heard on : 04-01-2022

Judgement delivered on : 04-01-2022

**J U D G M E N T**

1. The prosecution story emanates from the FIR lodged by General Manager, Kacharigaon Tea Estate stating inter alia that on 5-7-17 at about 9 pm, while their Chawkidar Sri Cintu Sawra along with four others were performing duties, they found Sri Bishan Yadav along with 3/4 persons were cutting tea leaf from the tea garden. They tried to apprehend the miscreants but the persons fled away from the scene leaving behind one Mobile phone, two nos of umbrella and one big plastic bag full of tea leaf. Hence this case.

2. On receipt of ejahar, Rangapara PS case no. 105/17 U/S 379 IPC was registered and ASI Padma Kt Das was entrusted with the investigation of this case. After completion of investigation, the police filed charge-sheet against the accused Sri Baleswar Yadav u/s- 379 IPC. At the relevant point of time, on receipt of summons the accused appeared before this Court and he was furnished copies as mandated u/s 207 Cr.P.C. Having found a case against the accused u/s- 379 IPC, charge under said section of law was framed,

read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

3. The prosecution examined only 2 (two) witnesses. Considering the evidence of PW1, PW2 and on the oral prayer of prosecution and defence sides, further prosecution evidence was dispensed with. The accused is examined u/s-313 Cr.P.C. wherein he stated that the prosecution case is false.

**Point for determination:-**

Whether the accused on 6-7-17 at about 9 pm committed theft of green tea leaves from sanction No.10 of Kacharigaon Tea Estate and thereby committed an offence punishable under Section 379 of IPC?

**Discussion of evidence**

4. PW1, Sri Amala Singh is the informant of this case and he in his evidence has deposed that the incident took place on 6-7-17. At that time he was working as a General Manager of Kachari Gaon Tea Estate. While he was in his Banglow, the chowkidar of their Tea Estate namely Chintu came to him and informed him that 3/4 persons including one Bishan Yadav were committing theft of green tea leaves from sanction No 10 of their tea estate. On the next morning, he called the chowkidar and took his statement and then lodged the ejahar vide Ext.1 whereupon Ext.1(1) is his signature thereon.

In his cross-examination, he stated that Ext.1 was lodged after about one month of the incident and he does not know any accused person and also did not see any theft. He stated that there is no allegation against accused Baleswar. The allegation in the Ext.1 is only against Bishant Yadav.

5. PW2 Sri Chintu Sawra is the chowkidar of the Kacharigaon Tea Estate. He deposed that he knows the accused standing in the dock as he often supplies tea leaves to their tea garden. He does not know anything about this case.

**DECISION AND REASONS THEREOF**

6. I have heard the prosecution and defence side.
7. Let me now analyse how far the prosecution has been able to prove its case against the accused person.
8. It is seen that the informant as PW1 admitted in course of his cross-examination that he is not the eye witness to the occurrence. He admitted that there is no allegation against accused Baleswar. He also admitted that the allegation as alleged in the ejahar as Ext.1 is only against Bishant Yadav. PW2 Sri Chintu Sawra who is working as a chawkidar on the day of the occurrence has not stated anything against the accused. Thus, PW1 and PW2 have in no manner supported the prosecution case. This being the position, the prosecution case cannot be said to have been proved beyond all reasonable doubt.
9. In view of the discussions above, it is hereby concluded that the prosecution has failed to prove its case beyond all reasonable doubt. As such this court holds that the accused Sri Baleswar Yadav is not guilty of the offence U/S 379 of the Indian Penal Code and he be set at liberty forthwith. The bail bond furnished by the accused is hereby extended for six months from today (04-01-2022).
10. Seized articles if any, be delivered to his lawful owner after proper verification and following the process of law.
11. Judgement is delivered and pronounced in open court.
12. Given under my hand and seal of this court on this 4<sup>th</sup> day of January, 2022.

Sri Angshuman Bhattacharjee  
Addl. Chief Judicial Magistrate  
Sonitpur, Tezpur

APPENDIX

Prosecution witnesses:-

PW1 Sri Amala Singh

PW2 Sri Chintu Sawra

Defence witness:

Ejhar as Ext.1

Documents exhibited by the prosecution :-

Nil

Documents exhibited by the defence -: Nil

Sri Angshuman Bhattacharjee  
Addl. Chief Judicial Magistrate  
Sonitpur, Tezpur