

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE  
TEZPUR. SONITPUR.**

**Present:** Dr. M Baruah  
Chief Judicial Magistrate,  
Sonitpur, Tezpur.

**G. R. Case No. 1740/2011**  
**U/s. 448/353/506/34 IPC**

State

Vs

1. Pankaj Bora
2. Prasanta Hazarika
3. Padum Chandra Das
4. Biswajit Hazarika ..... Accused persons

**Appearance:**

Counsel for the State : Smti R Chakravorty,

Counsel for the defense : Md. I. Ansari.

Offence explained on : 27-6-2013.

Evidence recorded on : 30-8-13, 5-11-13.

Argument heard on : 18-11-2013.

Judgment delivered on : 3-12-2013.

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

The prosecution's case in brief is that the informant Utpal Bora filed an ejahar before the O/C, Tezpur PS on 16-8-11 stating that on 16-8-11 at about 9 p.m. the Addl. Deputy Commissioner, Sonitpur, Tezpur and the Circle Officer, Tezpur inspected the hospital campus and caught red handed three persons in his quarter while drinking and gambling. The accused persons forcibly entered into the official quarter of the informant and indulge in illegal activities.

2. Upon receive of the ejahar the O/C, Tezpur PS registered a case being No.868/11 U/s.353/448/294/506 of IPC and started investigation. After completion of investigation police filed charge

sheet against accused Pankaj Bora, Prasanta Hazarika, Padum Ch. Das and Biswajit Hazarika u/s 448/353/506/34 IPC.

3. The accused persons appeared before the Court and faced trial. Copy of the prosecution documents were furnished to the accused persons. After hearing learned counsel for both sides, particulars of offence u/s 448/353/506/34 IPC were explained to the accused persons. The accused persons pleaded not guilty and claimed to be tried.

4. Prosecution adduced evidence of three witnesses including the informant of the case. Prosecution closed further evidence of this case as the material witness, i.e. the informant-cum-victim has not supported the case of the prosecution and adducing the evidence of further witnesses, no fruitful purpose would be served. Considering the evidence of the witnesses, recording the statement of the accused persons U/s.313 Cr.P.C. dispensed with.

5. **POINTS FOR DETERMINATION**

- (i) Whether the accused persons, in furtherance of common intention, 16-8-11 at about 9 p.m. criminally trespassed into the official quarter of the informant ?
- (ii) Whether the accused persons, in furtherance of common intention, 16-8-11 at about 9 p.m. assaulted or used criminal force to the informant to deter his service as public servant ?
- (iii) Whether the accused persons, in furtherance of common intention, 16-8-11 at about 9 p.m. threatened to kill the informant with dire consequences?

Heard argument of the learned counsel for the prosecution and the defense. Peruse the materials on record.

6. **DECISION, DISCUSSION AND REASONS THEREOF**

The informant of this case Sri Utpal Borah deposed that on the day of occurrence at about 9.30pm he was in his quarter. At that time the Addl. Deputy Commissioner and the Circle Officer came to the office. He was called upon and asked as to who comes to the P.H.C. compound and drinks liquor. He expressed his ignorance about the matter. The ADC wrote an ejahar and he put his signature on it. Ext-1 is the ejahar and Ext-1(1) is his signature. Later on police came and took his signature on the seizure list. Ext-2 is the seizure list.

PW-2 Sri Ghaneshyam Sarma deposed that he do not know anything about the incident.

PW-3 Sri Ananta Nath stated that he knows the accused Padum. He does not know the rest of the accused persons. He does not know about the incident.

7. The prosecution has examined all the three independent witnesses. The informant PW-1 expresses his ignorance about the matter. The other two witnesses know nothing about the mater alleged in the ejahar. The witnesses have failed to support the prosecution's case. As such the prosecution has failed to prove the case against the accused.

8. **O R D E R**

Considering the facts and circumstances of this case, I found that the prosecution has failed to prove the case against the accused persons u/s 448/353/506/34 IPC beyond reasonable doubt. As a result the accused persons are acquitted and set at liberty. His bail bond stands cancelled.

9. The judgment is prepared and typed by me.

10. Set my hand and seal of this Court on this the 3rd day of December, 2013.

(Manash Baruah)  
Chief Judicial Magistrate,  
Sonitpur, Tezpur.