

G.R Case No-1629 of 2015
(State of Assam Vs. Sri Robin Konwar & Ors)

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, SONITPUR:: TEZPUR

G. R. Case No. 1629 of 2015

Under Section-120(B)/406/420 of I.P.C R/W Sec-5/6 of Prize Chits and Money
 Circulation Schemes (Banning) Act, 1978

Present:- **Sri N. J. Haque, AJS,**
Chief Judicial Magistrate
Sonitpur, Tezpur

State of Assam

-Vs-

1. Sri Romen Chetia
2. Sri Pankaj Buragohain
3. Sri Robin Konwar

.....Accused Persons

Advocate appeared:

Mr. N. K. Mishra, Addl. P.P For the State

Mr. Sanjoy Singh & Ors, Ld. Advocates..... For the accused persons

Evidence recorded on	:- 01.03.2021
Date of Statement of defence	:- 21.01.2022
Argument heard on	:- 21.01.2022
Judgment delivered on	:- 21.01.2022

J U D G M E N T

History of Prosecution's Case

1. Prosecution's case appears to be in a narrow campus is that on 02.07.2015 one Sri Golap Nath, lodged an ejahar before the Officer-In-Charge of Tezpur Police Station through Learned Superintendent of Police, Sonitpur at Tezpur alleging inter alia that he was an authorized agent of Luit Valley Company, a micro-finance company having its registered office at K.K. Path, House No-603, Opp. K.G. Nursing Home, Jorhat, Assam and worked for the company for the period of 2010 to 2013 before the company was closed and collected money on behalf of the said company from the customers along with many other agents. It is also stated that but after 2013 the accused persons, namely, Sri Romen Chetia being the Managing Director, Sri Pankaj Buragohain being the business partner of Sri Romen Chetia and Sri Robin Konwar being the Chief Operating Officer of said Luit Valley kept waiting the agents

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for paying the maturity amounts of the customers time after time and thereby cheating them.

"INVESTIGATION"

2. On receipt of the ejahar, Tezpur P.S case No-784 of 2015 u/s-120(B)/420/406 of IPC R/W Sec-4/5/6 of Prize Chits and Money Circulation Schemes (Banning) Act, 1978 was registered and investigated into and on completion of the investigation, the I.O has submitted charge sheet against the accused, namely, Sri Romen Chetia, Sri Pankaj Buragohain and Sri Robin Konwar u/s-120(B)/420/406 of I.P.C R/W Sec-5/6 of Prize Chits and Money Circulation Schemes (Banning) Act, 1978.

CHARGE & TRIAL

3. In pursuant to the court process, the accused persons appeared before the court and they were allowed to go on bail. Copies u/s-207 of CrPC was furnished to the above-named accused persons. After hearing both sides, charge of offence u/s-120(B)/420/406 of IPC R/W Sec-4/5/6 of Prize Chits and Money Circulation Schemes (Banning) Act, 1978 was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

STATEMENT OF DEFENCE

4. The prosecution side to prove the case examined as many as seven numbers of witnesses including the informant in support of this case. Considering the testimonies of witnesses, the prosecution side declined to adduce further evidence before this court. Hence, the evidence of prosecution side is closed. Accused persons were examined u/s-313 of CrPC and their pleas of denial are recorded in separate sheet and the same kept with the case record. Accused persons declined to adduce evidence for their defence.

ARGUMENT

5. I have heard arguments of both sides and travelled through the entire case record in the backdrop of evidences on the record.
6. **The points for determination in this case are:** -
 - (i.) Whether the accused persons in the year 2010 to 2013 at a place called Beseria, Tezpur agreed with each other to do an illegal act of collecting money from public in the year 2010 to 2013 approximately

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Rs.28,00,000/- (Rupees Twenty Eight Lakhs) by illegally means and the same act, viz was done in pursuance of the agreement to cause wrongful loss to the informant with other beneficiaries of company called Luit Valley and thereby committed an offence punishable u/s-120(B) of IPC?

- (ii.) Whether the accused persons on or about the year 2010 to 2013 at a place called Beseria, Tezpur area being the officials of Luit Valley Company, a micro-finance company having its registered office at K.K. Path, House No-603, Opp. K.G. Nursing Home, Jorhat, Assam entrusted with property approximately Rs. 28,00,000/- belongs to informant and other beneficiaries and converted the same on your own use and thereby committed an offence punishable u/s-406 of IPC?
- (iii.) Whether the accused persons on or about the year 2010 to 2013 at a place called Beseria cheated the informant and other beneficiaries, namely, Golap Nath, Nilamoni Das, Pranab Jyoti Nath, Sonaram Nath, Lakhyajyoti Nath, Biswa Nath, Marami Saikia, Mridul Nath, Dinesh Nath, Pari Devi, Jamuna Devi, Rupali Borah, Pranjit Nath, Anima Borah, Khanindra Borah, Nayanmoni Borah, Mridupaban Nath, Jurimoni Devi and Badal Nath by dishonestly inducing them to deliver a property approximately Rs. 28,00,000/- to you in the name of your company called Luit Valley Company a micro-finance company having its registered office at K.K. Path, House No-603, Opp. K.G. Nursing Home, Jorhat, Assam, which was the property of the aforesaid beneficiaries and accordingly, the accused alter or destroy the whole or any part of that property by deceitful means and thereby committed an offence punishable u/s-420 of IPC?
- (iv.) Whether the accused persons on or about the year 2010 to 2013 at a place called Beseria and Tezpur area establishes a company called Luit Valley Company a micro-finance company having its

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registered office at K.K. Path, House No-603, Opp. K.G. Nursing Home, Jorhat, Assam, and circulated the scheme in Tezpur area more specifically at the place called Beseria and collected a sum of Rs. 28,00,000/- approximately from informant and other beneficiaries by way of inducing those persons to participate in the scheme and consequently declined to return the said amount to the beneficiaries and thereby committed an offence punishable u/s-5/6 of Prize Chit and Money Circulation Schemes (Batting) Act, 1978?

DECISION AND THE REASONS THEREON:

7. Before appreciations of evidences on record, I would like to throw lights upon the prime acquisitions levelled against the accused persons to appreciate the evidences properly. On careful perusal of the Ejahar, it divulges that the informant alleges that he was an authorized agent of Luit Valley Company, a micro-finance company having its registered office at K.K. Path, House No-603, Opp. K.G. Nursing Home, Jorhat, Assam and worked for the company for the period of 2010 to 2013 before the company was closed and collected money on behalf of the said company from the customers along with many other agents. It is also stated that but after 2013 the accused persons, namely, Sri Romen Chetia being the Managing Director, Sri Pankaj Buragohain being the business partner of Sri Romen Chetia and Sri Robin Konwar being the Chief Operating Officer of said Luit Valley kept waiting the agents for paying the maturity amounts of the customers time after time and thereby cheating them. In this case, prosecution side to prove the case examined as many as 07 (Seven) numbers of witnesses including the informant of this case. I have carefully travelled through the testimonies of the witnesses in the backdrop of entire prosecution case and it finds:-
8. PW-1, Sri Golap Nath being the informant of this case deposed before the court that he knows all three accused persons of this case. He also deposed that during the year 2010, the accused persons had started a financial company called "Luit Valley Pvt. Ltd" and he was one of the agents of that company. He further deposed that he had collected money as an agent of the said company and regularly deposited the collected money to the said company for about three years. He also deposed that after some time they noticed that the accused persons being the administrator

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of the company failed to return the amount which they have deposited in their company for a considerable period. He deposed that then with an apprehension that the accused persons may not be able to pay the fund deposited in their company, he along with some other beneficiaries lodged Ejahar against them and after he lodged the Ejahar the accused persons visits them and on negotiation they have decided to repay the amount that they have deposited in their company. He also deposed that accordingly the accused have duly returned the amounts which the beneficiaries are actually entitled to. He also admitted that now, he does not have any objection against the accused persons and further they don't want to proceed with this case. He identified the ejahar as Ext-1 wherein he put his signature as Ext-1(1).

9. PW-1 in his cross-examination testified that in the body of Ejahar, he has mentioned the name of some persons but only he put his signature in the Ejahar. He admitted that he lodged the ejahar against the accused persons over misunderstanding. He further deposed that including himself the other persons whose names have been reflected in the Ejahar got their money back from the accused persons. He admitted the fact that he does not have any objection if the accused gets acquittal in this case.
10. PW-2, Sri Mridul Nath deposed before the court that he knows the informant and the accused persons of this case. He also deposed that during the year 2010, the accused persons had started a financial company called "Luit Valley Pvt. Ltd" and he was one of the agents of that company. He deposed that he has collected money as an agent of the said company and regularly deposited the collected money to the said company for about three years. He also deposed that after some time they have noticed that accused persons being the administrator of the company failed to return the amount which they have deposited in their company for a considerable period. He also deposed that then with an apprehension that accused persons may not be able to pay the fund deposited in their company, informant along with some other beneficiaries lodged ejahar against them and after lodging the ejahar the accused persons visits them and on negotiation they have decided to repay the amount that they have deposited in their company. He also deposed that accordingly the accused persons duly returned the amount which the beneficiaries

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are the actually entitled to. He admitted that now, he does not have any objection against the accused persons and further they don't want to proceed with this case.

11. PW-2 in his cross-examination testified that informant lodged this case against the accused persons over misunderstanding. He also deposed that his mother Jina Devi was one of the customers of that company and his mother already received her money which she has deposited in the company. He further deposed that including him the persons whose names have been reflected in the ejahar got their money back from the accused persons. He admitted the fact that he does not have any objection if the accused gets acquittal in this case.
12. PW-3, Sri Lakhya Bijoy Nath deposed before the court that he knows the informant as well as the accused persons of this case. He further deposed that during the year 2013, the accused persons had started a financial company called "Luit Valley Pvt. Ltd" and he was one of the agents of that company. He further deposed that he has collected money as an agent of the said company and regularly deposited the collected money to the said company for about three years and after some time they have noticed that accused persons being the administrator of the company failed to return the amount which they have deposited in their company for a considerable period. Then with an apprehension that accused persons may not be able to pay the fund deposited in their company, informant along with some other beneficiaries lodged Ejahar against them. He also deposed that after lodging the Ejahar the accused persons visits them and on negotiation they have decided to repay the amount that they have deposited in their company. He further deposed that accordingly the accused persons have duly returned the amount which the beneficiaries are the actually entitled to. He admitted the fact that now, he does not have any objection against the accused persons and further they do not want to proceed further with this case. He identified the seizure list as Ext-2 wherein he put his signature as Ext-2(1). PW-3 in his cross-examination testified that the informant lodged the case against the accused persons over misunderstanding. He also deposed that including him the persons whose names have been reflected in the Ejahar got their money back from the accused persons. He admitted that he does not have any objection if the accused persons get acquittal in this case.

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13. PW-4, Sri Pranjit Nath deposed before the court that he knows the informant and the accused persons of this case. He further deposed that during the year 2010 to 2013, the accused persons had started a financial company called "Luit Valley Pvt. Ltd" and he was one of the agents of that company. He further deposed that he has collected money as an agent of the said company and regularly deposited the collected money to the said company for about three years and after some time they have noticed that accused persons being the administrator of the company failed to return the amount which they have deposited in their company for a considerable period. Then with an apprehension that accused persons may not be able to pay the fund deposited in their company, informant along with some other beneficiaries lodged Ejahar against them. He also deposed that after lodging the Ejahar the accused persons visits them and on negotiation they have decided to repay the amount that they have deposited in their company. He further deposed that accordingly the accused persons have duly returned the amount which the beneficiaries are the actually entitled to. He admitted the fact that now, he does not have any objection against the accused persons and further they do not want to proceed further with this case. PW-4 in his cross-examination testified that the informant lodged the case against the accused persons over misunderstanding. He also deposed that including him the persons whose names have been reflected in the Ejahar got their money back from the accused persons. He admitted that he does not have any objection if the accused persons get acquittal in this case.
14. PW-5, Sri Kumud Ranjan Borah deposed before the court that he knows the informant and the accused persons of this case. He further deposed that during the year 2010 to 2013, the accused persons had started a financial company called "Luit Valley Pvt. Ltd" and he was one of the agents of that company. He further deposed that he has collected money as an agent of the said company and regularly deposited the collected money to the said company for about three years and after some time they have noticed that accused persons being the administrator of the company failed to return the amount which they have deposited in their company for a considerable period. Then with an apprehension that accused persons may not be able to pay the fund deposited in their company, informant along with some other beneficiaries lodged Ejahar against them. He also deposed that after lodging

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the Ejahar the accused persons visits them and on negotiation they have decided to repay the amount that they have deposited in their company. He further deposed that accordingly the accused persons have duly returned the amount which the beneficiaries are the actually entitled to. He admitted the fact that now, he does not have any objection against the accused persons and further they do not want to proceed further with this case. PW-5 in his cross-examination testified that the informant lodged the case against the accused persons over misunderstanding. He also deposed that including him the persons whose names have been reflected in the Ejahar got their money back from the accused persons. He admitted that he does not have any objection if the accused persons get acquittal in this case.

15. PW-6, Sri Nayan Moni Nath deposed before the court he knows the informant as well as the accused persons of this case. He also deposed that during the year 2010 to 2013, the accused persons had started a financial company called "Luit Valley Pvt. Ltd" and he was one of the customers of that company where he deposited an amount of Rs.500 for a period of 18 months and consequently he got his money with interest. The cross-examination of PW-6 was declined by the defence side.
16. PW-6, Sri Basanta Kumar Nath deposed before the court he knows the informant as well as the accused persons of this case. He also deposed that during the year 2010 to 2013, the accused persons had started a financial company called "Luit Valley Pvt. Ltd" and he was one of the customers of that company where he deposited an amount of Rs.300 for a period of 35 months and consequently he got his money with interest. The cross-examination of PW-7 was declined by the defence side.
17. I have carefully travelled through the testimonies of each witnesses and its find that as per the prosecution witnesses including the informant (PW-1), during the year 2010 to 2013 he being the agent of a financial company called "Luit Valley Pvt. Ltd" had collected money and regularly deposited the collected money to the said company for about three years. He also testified that after some time they noticed that the accused persons being the administrator of the company failed to return the amount which they have deposited in their company for a considerable period and then with an apprehension that the accused persons may not able to pay the fund deposited in their company, he along with some other beneficiaries lodged Ejahar against them and after he lodged the Ejahar the accused persons visits them

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and on negotiation they have decided to repay the amount that they have deposited in their company but in the same time the informant as well as the other witnesses have admitted in their cross-examination that ejahar was lodged by the informant against the accused persons over misunderstanding and therefore, they have no objection if the accused gets acquittal from the case as they got their money back from the accused persons. Hence, it apparently appears before this court that PW-1 being the informant of this case contradicted the entire contentions of the ejahar by way of not implicating the accused persons in this case.

18. To sum up the evidences on record, this court finds that evidence presented by the prosecution side appears to be contradictory in nature and full with lot of shortcomings. This court not finds any single witness to be truthful under which the accused persons may be held guilty of commission of alleged offences. Hence, in the result it can be safely concluded here by way of observing that the prosecution side failed to prove the guilty of the accused persons beyond any reasonable doubt and all the accused persons are entitled to get the benefit of doubt.
19. In view of the above evidence on record, I am of the opinion that prosecution side has failed to prove the charges against the accused persons, namely, Sri Romen Chetia, Sri Pankaj Buragohain and Sri Robin Konwar beyond reasonable doubt and as such the accused persons are acquitted from the charges u/s-120(B)/420/406 of IPC R/W Sec-4/5/6 of Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and sets at liberty. Surety is extended for six months in view of section-437A of Cr PC.
20. Accordingly, the case is disposed of. Judgment is prepared and pronounced in open court. Given under my hand & seal of this court on this 21st day of January, 2022 at Tezpur.

**(Sri N. J. Haque)
Chief Judicial Magistrate,
Sonitpur: Tezpur**

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ANNEXURE

1. Witnesses for Prosecution: -

PW-1:- Sri Golap Nath, the informant

PW-2:- Sri Mridul Nath,

PW-3:- Sri Lakhya Bijoy Nath,

PW-4:- Sri Pranjit Nath,

PW-5:- Sri Kumud Ranjan Borah,

PW-6:-Sri Nayan Moni Nath,

PW-7:- Sri Basanta Kumar Nath,

2. Witnesses for Defence: NIL

3. Court Witnesses: NIL

4. Prosecution Exhibits:

Ext-1 :- FIR

Ext-1(1) :- Signature of Informant

Ext-2 :- Seizure List

Ext-2(1) :- Signature of PW-3

5. Defence Exhibits: NIL

6. Material Exhibits: NIL

**Chief Judicial Magistrate
Sonitpur, Tezpur**