

**APPENDIX -12**

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, SONITPUR, TEZPUR Present: <b>Smt. Priyanka Saikia, JMFC</b> (Date of the Judgment) <b>29-10-2022</b> <b>(CASE NO- P.R. 1145/2022)</b> (Details of FIR/Crime and Police Station)	
Complainant	State of Assam or Miss Parishmita Baruah
Represented By	Smti. Bandhana Boro, Learned APP
Accused person	Sri Nitumoni Borah S/o- Sri Dharmeswar Borah R/o- Samdhara Panigaon P.S.- Jamuguri Dist- Sonitpur, Assam
Represented by	Sri Dip Jyoti Hazarika

**APPENDIX -13**

Date of offence	10-11-2019
Date of FIR	13-11-2019
Date of charge sheet	29-12-2021
Date of charge frame	28-09-2022
Date of commencement of evidence	06-10-2022
Date on which judgment is reserved	06-10-2022
Date of judgment	29-10-2022
Date of the sentencing order, if any	NIL

**Accused Details**

Rank of Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention undergone during Trial for purpose of Section 438, Cr.P.C.
A-1	Sri Nitumoni Borah	NIL	25-11-19	Section 379 of IPC	Acquitted	NIL	NIL

**APPENDIX -14****LIST OF PROSECUTION / DEFENSE / COURT WITNESSES****A. Prosecution:**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Parismita Baruah	Informant
PW2	Krishna Baruah	Other witness

**B. Defense Witnesses, if any:**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

**C. Court Witnesses, if any:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

**LIST OF PROSECUTION/ DEFENSE/ COURT EXHIBITS****A. Prosecution:**

<b>Sr. No</b>	<b>Exhibit Number</b>	<b>Description</b>
1	Ext. 1	Ejahaar
2	Ext. 1(1)	Signature

**B. Defense:**

<b>Sr. No</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

**C. Court Exhibits:**

<b>Sr. No</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

**D. Material Objects**

<b>Sr. No</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

## **JUDGMENT**

**1.** The informant, Smti Parismita Baruah had lodged the ejahar in this case on 13.11.2019 alleging that on 10.11.2019 at about 07.30 PM when she returned to her house, she noticed that A-1 left her house. Later she came to know that police called A-1 and her father, regarding firing of Rifle, as her father has one ancestral long barrelled Rifle. Therefore, she suspected that A-1 stole the Rifle from their house and firing on air. Hence, this case.

**2.** Upon receipt of the ejahar, the police registered Jamuguri Police Station case no: 184/2019 under Section 379 of Indian Penal Code, 1860 (hereinafter referred to as IPC) R/W Sec. 25(1)(a) Arms Act. After completion of the investigation the police submitted charge-sheet against A-1 under Section 379 of IPC.

**3.** A-1 entered trial and after furnishing copies of the relevant documents in compliance with Section 207 of Cr.P.C and upon finding sufficient materials against A-1, charge under Section 379 of IPC was framed and was explained to him to which A-1 pleaded not guilty and claimed to be tried.

**4.** The prosecution examined the informant, Smti Parishmita Baruah as PW-1 and Sri Krishna Baruah as PW-2. The statement of A-1 under Section 313 of Cr.P.C was dispensed with due to the lack of incriminating materials

against him. Defence declined to adduce evidence. I have heard the arguments for both sides.

5. Upon hearing and on perusal of the case record I have framed the following points for determination-

(I) Whether on 10.11.2019 at about 07.30 PM, A-1 committed theft of the long barrelled Rifle from the informant's house and thereby committed an offence punishable under Section 379 of Indian Penal Code?

**DISCUSSION, REASONS AND DECISION THEREOF:**

6. In the course of the evidence adduced by the prosecution, it emerged that the informant Smti Parishmita Baruah, who was examined as PW-1 and Sri Krishna Baruah as PW-2 have stated that the instant case was filed due to misunderstanding. A-1 is their neighbour. Now they do not want to proceed with the case and if A-1 will acquitted from the case they do not have any objection.

7. Since the informant who launched the prosecution of A-1 has not incriminated him, the case of the prosecution has fallen flat on its face. Hence, the point for determination is decided in the negative.

**ORDER**

8. Situated thus, A-1 is acquitted of the offence Sec. 379 of IPC and set at liberty forthwith.

**9.** The bail bond of A-1 will remain in force for 6 (six) months from today by virtue of Sec. 437(A) Cr.P.C.

Given under my hand and seal of this court on this 29<sup>th</sup> day of October, 2022 at Sonitpur, Assam.

(Priyanka Saikia, AJS)  
Judicial Magistrate 1<sup>st</sup> Class  
Sonitpur, Tezpur