

APPENDIX -12**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS****Present:** Smt. Darshana Nath, JMFC, SONITPUR, TEZPUR**[Date of the Judgment]**

09.11.2022

[PR Case No.1699 of 2022]

(Details of FIR/ Crime and Police Station)

COMPLAINANT :	State of Assam Or Faizul Uddin S/o- Jahur Uddin R/o- Gotlung, Namapara, P.S.- Tezpur, Dist.- Sonitpur (Assam)
REPRESENTED BY	Smti Niva Devi, Ld. A.P.P.
ACCUSED	Md. Noor Ali S/o- Mahammad Ali R/o- Rajbharal , P.S.- Tezpur, Dist.- Sonitpur (Assam)
REPRESENTED BY	Rupjyoti Baruah, Ld. Counsel.

APPENDIX -13

Date of Offence	04-08-2022
Date of FIR.	04-08-2022
Date of Charge-sheet	31-08-2022
Date of Offence Explained	12-10-2022
Date of commencement of evidence	26-10-2022
Date on which judgment is reserved	-
Date of the Judgment	09-11-2022
Date of the Sentencing Order, if any	-

ACCUSED DETAILS:

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offence charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention undergone during Trial for purpose of Section 438, Cr.P.C.
A1	Md. Noor Ali	05-08-2022	Nil	U/S 457/380 IPC	Acquitted	Nil	96 Days.

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST
CLASS AT SONITPUR, TEZPUR**

PRESENT: DARSHANA NATH, AJS, Tezpur, Sonitpur

PR CASE NO: 1699/2022

U/S 457/380 IPC

STATE

VS.

Noor Ali

FOR PROSECUTION : Smti. Niva Devi
FOR THE ACCUSED : Rupjyoti Baruah,Ld. Counsel.
ARGUMNTS HEARD ON : 26-10-2022
EVIDENCE RECORDED ON : 26-10-2022
JUDGEMENT DELIVERED ON: 09-11-2022

JUDGMENT

1. The accused person A1 stood trial for offences punishable under Sections 457/380 of Indian Penal Code (hereinafter IPC).

Information and Investigation

2. The genesis of this case has its roots with the lodging of Ejahar by informant/PW1 on 04/08/2022 wherein he stated that on that same day at 3 am, the accused person tried to steal his mobile hand set and he caught the accused on spot.

3. The Ejahar was registered as Tezpur P.S Case no 866/22 u/s 457/380 IPC. The police after investigation submitted charge sheet against the accused person under section 457/380 IPC.

Trial

4. Cognizance was taken of the charge sheeted offences and process was issued upon which the accused person appeared and copy of the relevant documents was furnished to her in compliance with section 207 of Code of Criminal Procedure (hereinafter referred as CrPC). Charges are framed and substances of offences are explained to the accused person to which he pleaded not guilty and claimed to be tried.
5. In this case, the prosecution has examined the informant as PW-1. PW1 stated that the he found the theft mobile phone and does not want to proceed with the case.
6. Considering testimony of the informant, the prosecution declined to further adduce evidence in this case. Hence, the evidence of prosecution side is closed. Examination of accused person u/s 313 CrPC dispensed with as the prosecution did not adduce any incriminating evidence against him.
7. After hearing the learned Counsel of both sides and after perusal of the case record, I do hereby frame the following points of determination.

POINTS FOR DETERMINATION

- a) **Whether the accused committed lurking house trespass of the house of PW1 and thereby committed offence u/s 457 IPC?**

b) Whether the accused person theft mobile of PW1 and thereby committed offence u/s 380 IPC?

PROSECUTION EVIDENCE

Evidence of the informant

8. PW1 is the informant. He found the theft mobile phone and does not want to proceed with the case.
9. He stated that he has no objection even if the accused person is acquitted.
- 10.** The defense declined cross examination of PWs.

DISCUSSIONS, DECISIONS AND REASONS THEREOF

11. Upon a perusal of the evidence, it is clear that the informant in this case does not wish to proceed with the case, as the case was lodged due to misunderstanding but now the matter has been resolved among the two parties amicably and they have no issue if the accused person is acquitted of the charges brought against him.
12. As such the prosecution has failed prove that the accused person has committed the offences u/s 457/380 IPC beyond reasonable doubt.

ORDER

13. In light of the above, it is held that the prosecution has failed to prove the case U/S 457/380 IPC against the accused person A1 beyond all reasonable doubt. Hence, he is hereby **acquitted** and set at liberty forthwith.

However, his bail bond shall remain in force for a period of next 6(six) months as provided by section 437A CrPC.

Given in my hand and under the seal of this court on this the 9th day of November, 2022.

Typed by Me:

Smti. Darshana Nath
Judicial Magistrate First Class, Tezpur

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

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Faizul Uddin	Informant

B. Defence 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 :

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

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

Sr. No	Exhibit Number	Description
1	Exhibit P1/PW1	FIR
2	Exhibit P1(1)/PW1	Signature of PW1
3	Exhibit P2/PW1	Seizure list
4	Exhibit P2(1)/PW1	Signature of PW1
5	Exhibit P3/PW1	Zimma nama
6	Exhibit P3(1)/PW1	Signature of PW1

B. Defence:

Sr. No	Exhibit Number	Description
Nil	Nil	Nil

C. Court Exhibits:

Sr. No	Exhibit Number	Description
Nil	Nil	Nil

D. Material Objects

Sr. No	Exhibit Number	Description
Nil	Nil	Nil

Smti. Darshana Nath
Judicial Magistrate First Class, Tezpur