

**APPENDIX-12**

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

Present:- Sri Nabajit Bhatta. AJS. MA, LL.B.  
Chief Judicial Magistrate,  
Sonitpur, Tezpur

[Date of the Judgment]  
**27.12.2022**

**[PR Case No-999 of 2022]**

(FIR NO-584/2022 DATED-11.05.2022/CHEATING /CRIMINAL BREACH OF TRUST  
CASE AND TEZPUR POLICE STATION)

COMPLAINANT :	STATE OF ASSAM OR Sri Atul Borah, S/O:- Late Madan Borah, R/O:- Hatipilkhana Ward No-6 P/S:- Tezpur Dist:- Sonitpur, Assam
REPRESENTED BY	Mrs. Karabi Das, Ld. Asst. P.P
ACCUSED PERSON	Sri Mahendra Keot, S/O:- Late Koneswar Keot, R/O:- Da Parbatia, P/S:- Tezpur Dist:- Sonitpur, Assam
REPRESENTED BY	Mr. Tapan Ghosh, Ld. Counsel

**APPENDIX-13**

Date of Offence	In the year 2020
Date of FIR	11.05.2022
Date of Charge Sheet	29.05.2022
Date of Framing of Charge	12.07.2022
Date of commencement of evidence	27.12.2022
Date on which judgment is reserved	27.12.2022
Date of Judgment	27.12.2022
Date of the Sentencing Order, if any	NIL

**ACCUSED DETAILS :**

Rank of the Accused	Name of the accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentenced Imposed	Period of Detention undergone during Trial for purpose of Sec. 428 Cr.P.C.
A-1	Sri Mahendra Keot	19.05.2022	27.05.2022	Sec-420/406 of IPC	Acquitted	NIL	11 Days

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

**P. R. Case No-999 of 2022**

State of Assam  
-Vs-  
Sri Mahendra Keot

.....Accused Person

Under section-420/406 of I.P.C

*Present:*

*Sri Nabajit Bhatta AJS. MA, LL.B.*  
*Chief Judicial Magistrate, Sonitpur at Tezpur*

27<sup>th</sup> day of December, 2022

Mrs. K. Das, Asst. P.P ..... Advocate for the State  
Mr. T. Ghosh, Ld. Counsel ..... Advocate for the Accused

Date of Hearing : 27.12.2022  
Date of Argument : 27.12.2022  
Date of Judgment : 27.12.2022

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

1. Prosecution story in brief is as follows that on 11.05.2022 the complainant Sri Atul Nath lodged an FIR before the O/C of Tezpur Police Station to the effect that due to his some financial problem he borrowed Rs.1,20,000/- with interest of Rs.10/- from the accused Sri Mahendra Keot in the year 2020 and for the said purpose he had given his ATM including the ATM pin to the accused and thereafter, accused withdrawal interest amount from his account. Hence, the case.
2. The instant case was registered under section-420/406/467 of I.P.C. and police investigated the same. After completion of investigation police

submitted charge-sheet against the above-named accused person, namely, Sri Mahendra Keot under section-420/406/468 of I.P.C.

3. That my Ld. Predecessor in office took cognizance of the offence against the accused person. On appearance of the accused person copies of relevant documents were furnished to accused person and the charge under section-420/406 of I.P.C. was framed against the accused and the said charge was read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
4. Prosecution in order to prove the case has examined only one witness i.e. the informant in support of this case. Defence plea was total denial. Defence has adduced no evidence. Statement of the accused person has been recorded U/S-313 of Cr. P.C.
5. **POINTS FOR DETERMINATION:-**

(i.) Whether the accused person on 11.05.2022 at a place called Hatipil Khana under Tezpur PS cheated the informant Sri Atul Borah by dishonestly inducing him to deliver his SBI ATM Card and thereby committed an offence punishable under section-420 of the Indian Penal Code?

(ii.) Whether the accused person on the same date, time and place entrusted with SBI ATM Card of the informant and consequently, criminally misappropriated the said ATM for causing wrongful loss to the informant and gaining wrongfully which you are not legally entitled to and thereby committed an offence punishable under section-406 Indian Penal Code?

6. Heard argument from the Ld. Advocate of accused person. On perusal of the evidence on record and case diary the very findings are as follows.

**DISCUSSION, DECISION AND REASONS THEREOF**

7. The prosecution opening the account of examining the witness first brought the informant, namely, Sri Atul Borah as PW-1. The PW-1 has stated that he knows the accused person. He also stated that he took some rupees from him in the year 2020 as a loan and after that he handed over his ATM card to him and he regularly paid loan instalment to him. However, after few days some misunderstanding took place between them. Hence, he lodged this case against him. He identified his ejahar as P. Ext-1 wherein he put his signature as P. Ext-1(1). He further stated that later on, they have amicably settled the case outside of the court.
8. In cross-examination, PW-1 has stated that he took loan of Rs.1,20,000/- from the accused for treatment of his ailing daughter. He stated that he paid him some amount of money to the accused with his own will for his help. He also stated that the accused never cheated him and the case was lodged out of misunderstanding between them. He stated that he has no objection if the accused person is released by the court.
9. I have minutely perused the evidence on record including the cross-examination of the witness. From the above discussions, no sufficient incriminatory materials have been found against the accused person. Thus, keeping view of what has been discussed above this court has no least hesitation that the prosecution has failed miserably to establish the guilt of the accused U/S: 420/406 of I.P.C. Hence, the accused person, namely, Sri Mahendra Keot is not found guilty.

**ORDER**

Accused person, namely, Sri Mahendra Keot is acquitted from the Charges under section-420/406 of I.P.C. and set at liberty forthwith.

Bail-bond of the accused person is extended for six months in view of section-437A of Cr PC.

Judgment is prepared and pronounced in open court. Given under my hand & seal of this court on this 27<sup>th</sup> day of December, 2022 at Tezpur.

**(Sri Nabajit Bhatta)**  
**Chief Judicial Magistrate,**  
**Sonitpur: Tezpur**

Dictated and Corrected by me

Chief Judicial Magistrate,  
Sonitpur: Tezpur

**APPENDIX -14**  
**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES**

**A. Prosecution:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Sri Atul Borah	INFORMANT

**B. Defence 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

**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/DEFENCE/COURT EXHIBITS****A. Prosecution:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1	Ext-1/PW-1	Ejhar
2	Ext-1(1)	Signature of PW-1

**B. Defence:**

<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

Chief Judicial Magistrate,  
Sonitpur: Tezpur