

**IN THE COURT OF THE ASSISTANT SESSIONS JUDGE,
SONITPUR AT TEZPUR**

PRESENT : Sri M. Kalita,
Assistant Sessions Judge,
Sonitpur, Tezpur.

SESSIONS CASE NO. 40 OF 2012

GR Case No. 163/12.

Under Section 457/436/511 of Indian Panel Code

State of Assam **Complainant**

–Versus –

Sri Bhushan Saikia,,
Son of Late Thaneswar Saikia,
Village- Dihingia Kalita gaon,
PS – Tezpur.
Dist – Sonitpur, Assam **Accused Person**

ADVOCATES APPEARED:

For the State : Sri Mahendra Bora,
Additional Public Prosecutor

For the accused person : Sri A.K. Saikia,
Advocate

Date of evidence : 24– 04– 2012 & 02-06-12.

Date of Argument : 11– 06 – 2012

Date of Judgment : 11– 06 – 2012

J U D G M E N T

1. Briefly, the prosecution case was that Bhupen Saikia, the informant, lodged the FIR before Bebejia Police Out Post under Tezpur Police Station on 21-01-2012 against the accused Bhushan Saikia stating inter-alia that on 20-01-2012 at about 12 p.m. the accused entered into the room of his residence and closed the door from inside. Thereafter, the accused with intent to kill the members of his family tried to set them on fire. Then, he raised alarm and thereafter the neighbouring people arrived at the place of occurrence and then he could save his life. The accused also threatened to the informant with dire consequence. So, the informant prayed before the police for taking necessary action against the accused.

2. After receiving the aforesaid FIR, the I/C of Bebejia Police Out Post made a GD Entry on the basis of FIR and started to investigate the case after sending the FIR to Tezpur Police Station for registering a case. Accordingly, Officer-in-Charge of Tezpur PS registered a case bearing Tezpur Police Station Case No. 91/12 u/s 448/506/436/511 of IPC. The Investigating Officer investigated the case. And after completing the investigation, the Investigating Officer submitted the Charge sheet against the accused u/s 457/436/511 of IPC. Hence, the prosecution case.

3. After appearance of the accused, the learned Judicial Magistrate committed the case to the learned Sessions Judge, Sonitpur, Tezpur. Then the case was made over to this Court accordingly, trial was taken up by this Court. Considering the materials available on case record and relevant documents of case diary, the charge was framed against the accused under Sections 457/436/511 of IPC. Then the contents of charge was

read over and explained to the accused to which the accused pleaded not guilty and claimed to be tried.

4. The prosecution has examined only two PWs to bring home the case. Then the accused has been examined u/s 313 CrPC, wherein he has denied the prosecution case totally. No witness has been examined by defence. And after the close of trial, judgment is delivered.

5. **Point for determination of the case:**

Whether the accused committed house trespass by entering into the residence of informant at the time of occurrence?

If so, whether the accused made attempt to set the house of informant on fire?

If so, whether the accused did certain act to cause mischief by fire?

Discussion, Decision and reasons for Decision:-

6. Before coming to the conclusion, I like to briefly discuss the evidence adduced by PWs first.

7. PW 1 is the informant. He has stated that on 20-01-12 while he was taking the heat of fire at that time the accused was also present. Then an altercation took place on family matters. Accused took one fire wood and threatened to set his house on fire and out of fear he lodged the ejahar. He has proved the ejahar as Ext.1.

In the cross-examination, PW 1 has admitted that the occurrence took place on misunderstanding. He has no any grievances against the accused.

8. PW 2 is Sri Loknath Nath. He has stated that he has no knowledge about the occurrence. He came to know about

the occurrence taken place at the mid night while he was sleeping. So, he has no specific knowledge about the occurrence.

9. From the above discussion of evidence of above PWs, it is found that the informant has admitted that he lodged the ejarah only on out of fear because the accused threatened to set fire by taking a lighting fire wood. So, from the evidence of informant it is found that no such act was done by the accused at the time of occurrence towards the causing mischief the house of informant by setting it on fire. Because the informant himself has admitted that the accused only threatened him. The informant has not also stated anything regarding the offence of lurking house trespass by the accused at the time of occurrence. Because, the informant has not stated that the accused committed the offence of lurking house trespass or committing other offence at the time of occurrence. So, it is found that the fact of FIR has not been adequately substantiated by the evidence of PWs. What is stated by the PWs is not sufficient enough to prove the ingredients of offence U/s. 457/436 read with section 511 of IPC. So, it can be held that the prosecution has failed to prove the ingredients of offence u/s 457/436 read with section 511 of IPC with the material of beyond reasonable doubt for which, the accused is entitled to acquittal on benefit of doubt.

O R D E R

10. As the prosecution has failed to prove the case beyond all reasonable doubt against the accused person, so the accused person is acquitted on benefit of doubt and set at liberty forthwith.

11. The bail bond stands discharged immediately from the case.

12. Given under my hand and seal of this Court on this day, the 11th day of June, 2012.

(M. Kalita)
Assistant Sessions Judge,
Sonitpur, Tezpur.

Dictated and corrected by me.

(M. Kalita)
Assistant Sessions
Judge,
Sonitpur, Tezpur.

Dictation taken and
transcribed by me :

(R.Hazarika),steno.

A P P E N D I X**Prosecution witnesses :**

PW 1 : Sri Bhupen Saikia , informant.

PW 2 : Sri Loknath Nath.

Defence Witness : Nil

Court Witness : Nil

Prosecution Exhibits: :

Exhibit 1 : Ejahar.

Material Exhibits: : Nil

Defence Exhibit : Nil

Court Exhibit : Nil

Exhibit produced by witness : Nil

(M. Kalita)
Assistant Sessions Judge,
Sonitpur : Tezpur.