

**IN THE COURT OF CHIEF JUDICIAL
MAGISTRATE, DIBRUGARH :: ASSAM
PRC NO. 1044/18 (G.R. 4396/2018)**

U/s 457/380 IPC

State of Assam

-Vs-

Sri Golap Chand Robi Das..... Accused.

PRESENT : Smti. Rani Boro.

***Chief Judicial Magistrate,
Dibrugarh.***

APPEARANCE :

Ld. Advocate for the Prosecution: Smti. G. Phukan
A. P.P.

Ld. Advocate for the Defence : Mr Surya
Singhania.

Date of evidence : 10.12.2021.

Date of argument : 10.12.2021.

Date of judgment : 10.12.2021.

J U D G M E N T

- 1.** The case of the prosecution in brief is that on 23/11/2018, at about 01.15 PM, the informant lodged an FIR, before the O/C, Dibrugarh P.S. stating that on 20.11.2018, the accused Golap Chand Robi Das had stolen some gold ornaments and cash of Rs 8,000/- from the Alimrah of the informant's house in her absence. Hence, the case.
- 2.** On the basis of the FIR, lodged by the informant, the O/C, Dibrugarh P.S registered a case as Dibrugarh P.S case no. 1856 of 2018 U/S 457/380 IPC . Police conducted investigation into the case and filed charge-sheet against the accused Shri Golap Chand Robi Das under section 457/380 IPC .
- 3.** The accused person appeared in this case. Copies were furnished to him under section 207 Cr PC. Considering the materials on record and on hearing both sides, charge U/s 457/380 IPC was framed against the accused person. When the charge was read over and explained to the accused, he pleaded not guilty and claimed to be tried.
- 4.** During trial, prosecution side examined 1 (one) witness in this case. The prosecution submitted to close the prosecution's evidence. On submission, evidence was closed. As no material has been found

against the accused, statement of accused recorded under section 313 Cr PC was dispensed with.

5. I have heard the learned counsel for the accused and learned Asst. P.P for the State. Having heard both sides and after perusing the materials and evidence on record, the following point arises for determination in this case.

6. Points for determination

- (i) Whether on 20-11-2018, the accused person committed offence of house breaking at night, by entering into the residence of the complainant Smti. Lakhi Rabidas, in order to commit any offence and thereby, committed an offence punishable u/s 457 IPC?
- ii) Whether on the same date, time and place the accused person committed theft of gold ornaments and cash amount of Rs 8,000/- from the Almirah of the complainant, which is used for custody of property and thereby, committed an offence punishable under section 380 IPC?

DECISIONS, DISCUSSIONS AND REASONS THEREOF.

- 7.** The case was registered under section 457/380 IPC and charge sheet in this case was also filed under section 457/380 IPC. Today, when this case is fixed for evidence, the informant Smti. Lakhi Rabidas appeared and deposed her evidence as PW1 which is as follows :- “that she is the informant of this case and accused is her son-in-law. About 2 years back, when she went for pilgrimage and after returning, she found that some household articles were missing from his house and on suspicion, she lodged this case against the accused. Later on, she found the articles and so, she is desirous to proceed further. PW1 lodged the Ejahar, but she put his thump impression on it. In her cross-examination, PW1 deposed that she has no objection if the accused person is acquitted from this case”.
- 8.** From her evidence, it is clear that the accused is her son in law and she had lodged this case out of suspicion against him. She has compromised the matter with the accused and now she is desirous to proceed with the matter. From arrest memo of this case and from the zimma-nama which is annexed with the case record, it is clear that some articles were recovered and those articles are given in zimma of the informant/PW1 on 27.11.2018. PW1 has made no further claim in respect of her stolen

articles and also has given clear cogent evidence that she has lodged this case only on suspicion against the accused.

9. In view of the above evidence of PW1 and evidence of materials under section 457/380 IPC against the accused, **the accused Shri Golap Robi Das** is not found guilty of offence under section 457/380 IPC and accordingly, he is acquitted on benefit of doubt and set at liberty forthwith as prosecution failed to prove its case beyond reasonable doubt.

The bail bond shall remain in force for 6 (six) months from today.

Judgment is prepared in separate sheets and tagged with the case record.

Given under my hand and seal of this court on this 10th day of December, 2021.

(Smti. Rani Boro)
Chief Judicial Magistrate,
Dibrugarh.

Appendix

Prosecution Witness :-

PW1 :- Smti. Lakhi Rabidas.

Defence witness :- None

Exhibits :-

Prosecution exhibits :-

None.

Defence exhibits :- None

Court witness :- None.

Court exhibits :- None.

CJM, Dibrugarh