

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST  
CLASS, DIBRUGARH, ASSAM**

G.R.CASE NO. 2427/2015

(U/S- 147/448/384/506 IPC)

**Present: Smti. Sanskrita Khanikar, A.J.S.**  
**Judicial Magistrate First Class,**  
**Dibrugarh**

**State**

- VS -

**1. Sri Prakash Sahu**

S/O - Sri Sukhiram Sahu

R/O - Dirial T.E., Hoogrijaan

P.S. - Duliajan

Dist - Dibrugarh, Assam

**2. Sri Kamal Induwar**

W/O - Sri Sencer Induwar

R/O - Madhuting Tipling

**G.R.CASE NO. 2427/2015**

P.S. - Duliajan

Dist - Dibrugarh, Assam

.....**Accused persons**

Advocate for the Prosecution : Learned Smti. Lakshmi  
Mohan

Advocate for the Defence : Learned Mr. Imtiaz Parbez  
& Learned Smti. Malabika  
Hatimuria

Evidence recorded on : 20-04-2021, 20-09-2021,  
23-11-2021

Argument heard on : 08-12-2021

Judgment delivered on : 14-12-2021

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

**1.** The prosecution case as stated in the F.I.R. dated 27-08-2015 is that a group of outsiders under the banner of AATSA were creating lawlessness and breach of peace in Kamini T.E. of Dibrugarh by threatening to take forceful occupation of the garden. The informant of the F.I.R. is learned advocate Sri Manoj Kumar Chakma who has filed

**G.R.CASE NO. 2427/2015**

it on behalf of the Chairman of Kamini T.E. It has been stated therein that the said outsiders may forcibly take away the green leaves of the garden and sell those to others without approval of the management.

**2.** A case was registered at Duliajan P.S. subsequent to the lodging of this F.I.R. Upon completion of investigation, the police submitted charge-sheet against the accused persons, namely, Sri Prakash Sahu and Sri Kamal Induwar for the commission of offences under sections 143/448/384/506 of the Indian Penal Code (hereinafter referred to as I.P.C.).

**3.** The accused Sri Prakash Sahu and Sri Kamal Induwar stood for trial. Copies of the relevant documents were furnished to the accused as required by Section 207 of the Code of Criminal Procedure (hereinafter referred to as Cr.P.C.). Upon finding prima facie case for commission of offences u/sec 143/448/384/506 of the IPC, the charges therein under were framed, read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

**4.** In support of the case, the prosecution side has examined as many as 5 (five) witnesses namely Sri Manoj Kumar Chakma, informant of the case as PW-1, Sri Shiba Gogoi as PW-2, Sri Sailen Roy as PW-3, Sri Ganesh Thapa as PW-4 and Sri Robin Sharma as PW-5.

The prosecution also took aid of 1 (one) document which was exhibited as follows:

The ejahar was exhibited as Exhibit 1.

After recording the prosecution evidence, the statements of the accused persons were recorded u/sec 313 of Cr.P.C. The defence plea is that of total denial and the accused persons claimed innocence. The defence adduced no evidence.

**5.** I have heard the arguments from both sides and meticulously perused the entire evidence on record.

**6. THE POINTS FOR DETERMINATION**

(i) Whether the accused persons on or about 27-08-2015 at Kamini T.E. were members of an unlawful assembly, the common object of which was to create breach of peace, forcibly occupy the garden, take away the green tea leaves of the garden and to sell those to others without approval of the management of the T.E. and thereby committed an offence punishable u/sec 143 of the IPC?

(ii) Whether the accused persons on the same day, at the same time and place, committed house trespass by entering into Kamini T.E. with intent to create breach of peace, forcefully occupy the garden, take away the green tea leaves of the garden for selling them to others without the T.E. management's approval and

thereby committed an offence punishable u/sec 448 of the IPC?

(iii) Whether the accused persons, on the same day, time and at the same place, committed extortion by putting the Chairman of Kamini T.E. and the management team in fear of certain injury in order to create breach of peace, forcefully occupy the garden, take away the green tea leaves of the garden for selling them to others without the T.E. management's approval and thereby committed an offence u/sec 384 of the IPC?

(iv) Whether the accused persons, on the same day, time and place, committed criminal intimidation by threatening the Chairman of Kamini T.E. and the management team with intent to cause them alarm for creating breach of peace, forcefully occupying the garden, taking away the green tea leaves of the garden for selling them to others without the T.E. management's approval thereby committed an offence u/sec 506 of the IPC?

**DISCUSSION, DECISION AND REASONS THEREOF:**

**7.** PW-1, the informant deposed in his evidence that he does not recognise the accused persons. The incident occurred on in the evening of 02-01-2012. He stated that sometime in 2014 to 2015, he was looking after certain matters of Kamini T.E. He represented Kamini T.E. in certain cases in the office of the Asst. Labour

**G.R.CASE NO. 2427/2015**

Commissioner, Dibrugarh. At that time the financial condition of Kamini T.E. was not too good. He was also present during some conciliation proceedings for bonus/gratuity matters at the Asst. Labour Commissioner's office but the said proceedings did not result in any settlement. After the end of these proceedings, he received a call from the Manager of Kamini T.E. Sri Shiba Gogoi (PW-2) wherein he stated to the PW-1/informant that the tea estate workers had gathered around him and stopped working. The Manager asked him to file an F.I.R. regarding the said matter so that the situation does not get any worse. He proved Exhibit 1 as the F.I.R. lodged by him by identifying Exhibit 1(1) as his signature therein.

His cross-examination was declined by the defence.

**8.** PW-2 in his evidence deposed that the informant is known to him and that he also recognises the accused persons. The incident occurred on 27-08-2015 at about 12 a.m. in the afternoon when he was working at the office of Kamini T.E. The green tea leaves of Kamini T.E. were sent to Madhuting T.E. On the day of the occurrence, after measuring the green tea leaves, the same was sent in a different vehicle than the one otherwise used. This information was given to him by Sri Sailen Roy (PW-3) who was a member of their field staff. Sometime later, Madhuting T.E. questioned them as to why the green tea

leaves had not been sent. The PW-2 then informed them that the green leaves had already been sent but that some other vehicle had actually taken away the green tea leaves. He does not know what or which vehicle had taken the green tea leaves that day and as such he could not inform the same to Madhuting T.E. The Manager of Madhuting T.E. called up the Manager of Kamini T.E. and asked him as to why the green tea leaves had not been sent. Later on, the PW-2 came to know that the Chairman of Kamini T.E. had filed an F.I.R. through the informant regarding the matter. PW-2 did not see what the accused persons had done on the day of the incident.

During his cross-examination, he stated that he does not know which vehicle had taken the green tea leaves on the date of the occurrence. His statement was not recorded by the police. He denied the defence suggestion that the accused persons are not involved in the instant case.

**9.** PW-3 deposed in his evidence that the informant is not personally known to him and that the accused persons are known to him as they reside nearby Kamini T.E. He was working at Kamini T.E. when the incident occurred. At that time the financial condition of Kamini T.E. was quite bad and the workers of the tea garden were underpaid. The tea garden workers had asked the accused persons to control the affairs of the tea garden and to do something about its financial condition. He

stated that he does not know why the instant case was instituted against the accused persons. According to him the case may have been instituted regarding the matter of selling tea leaves but he does not know for certain.

His cross-examination has been declined by the defence.

**10.** PW-4 deposed in his evidence that the accused persons are known to him but that the informant is not known to him. During 2015, he was working at Kamini T.E. as an office clerk. During that time, the accused persons were members of All Assam Tea Students' Association (AATSA) and the workers of the tea garden had asked them to organise a meeting as there was a lot of disorder in the management of the tea garden. He does not know as to what happened in the said meeting and why the instant case was instituted against the accused persons.

Her cross-examination has been declined by the defence.

**11.** PW-5 deposed in his evidence that the informant is not known to him but that both the accused persons are known to him. During the year 2015, he was working as an office clerk at Kamini T.E. The tea estate was without an owner from 2014 to 2015 and that is why the tea garden workers had requested the accused persons to look after the management of the tea garden. He does not know why the instant case was instituted against the accused persons.

His cross-examination has been declined by the defence.

**12.** A careful study of the testimonies of the prosecution witnesses reveals that an incident did occur on 27-08-2015 at Kamini T.E. Duliajan. From the testimonies of the PWs it appears that the tea estate was going through some financial crisis. However, none of the PWs including the PW-1 being the informant, PWs 2, 3, 4 and 5 being the Manager, employee and office clerks respectively of Kamini T.E. could explain the role or involvement of the accused persons in the instant case. The contents of the Exhibit 1 are also not clear about the said incident. There is no incriminating material in the evidence on record which links the accused persons to the allegations levelled against them in the charge-sheet.

It is one of the cardinal principles of criminal jurisprudence that the prosecution must prove the guilt of the accused beyond all reasonable doubt. As is clear from the above discussion, the evidence on record is quite inadequate to establish the prosecution case and there is ample scope of reasonable doubt as to the factum of the occurrence alleged. Situated thus, I am not inclined to hold the accused persons namely, Sri Prakash Sahu and Sri Kamal Induwar guilty of the offences u/sec 143/448/384/506, IPC. As such, the points of determination are answered in the negative in favour of the accused persons.

**ORDER**

**13.** In view of the decision made above, the accused persons, namely, Sri Prakash Sahu and Sri Kamal Induwar are acquitted of the offences under sections 143/448/384/506, IPC and set at liberty forthwith.

Their bail bonds shall remain in force for six months from today in compliance with section 437-A, Cr.P.C.

The case is disposed of on contest.

Given under my hand and the seal of this Court on this 14<sup>th</sup> day of December, 2021 at Dibrugarh.

Sanskrita Khanikar

Judicial Magistrate First Class

Dibrugarh

**APPENDIX**

**A. Prosecution witnesses:-**

i) Sri Manoj Kumar Chakma, informant of the case as PW-1

ii) Sri Shiba Gogoi as PW-2

iii) Sri Sailen Roy as PW-3

iv) Sri Ganesh Thapa as PW-4

v) Sri Robin Sharma as PW-5

**B. Defence witnesses:- Nil**

**C. Prosecution exhibits:-**

i) The Ejahar as Exhibit 1

**D. Defence exhibits:- Nil**

Sanskrita Khanikar

Judicial Magistrate First Class

Dibrugarh