

G.R.CASE NO. 666/2019

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

G.R.CASE NO. 666/2019

(U/S- 447/506 IPC)

Present: Smti. Sanskrita Khanikar, A.J.S.

Judicial Magistrate First Class, Dibrugarh

State

- VS -

Sri Pritam Gogoi

S/O - Sri Umesh Gogoi

R/O - Jokai Kheroni Konwar Gaon

P.S. - Borbaruah

Dist - Dibrugarh, Assam

.....Accused person

Advocate for the Prosecution : Learned Smti. Lakshmi
Mohan

Advocate for the Defence : Learned Sri Gokul Pareek

G.R.CASE NO. 666/2019

Evidence recorded on : 22-12-2021

Argument heard on : 22-12-2021

Judgment delivered on : 22-12-2021

J U D G M E N T

1. The prosecution case as stated in the F.I.R. dated 02-02-2019 is that the informant, namely, Sri Bishwajit Gogoi is the owner of Jokai Khamtighat DBR/Dibrugarh/32 Sand Mahal. In the said F.I.R., he has alleged that the accused Sri Pritam Gogoi has been attempting to use his vehicle on the said Sand Mahal of the informant free of cost. Upon the refusal of the informant to permit him for the same, the accused has lodged a false case against the informant and has even threatened the informant of closing down his Sand Mahal. As such, the informant was compelled to lodge the said F.I.R. against the accused.

2. A case was registered at Borbaruah P.S. subsequent to the lodging of this F.I.R. Upon completion of investigation, the police submitted charge-sheet against the accused person, namely, Sri Pritam Gogoi for commission of the offences u/sec 447/120B/506 of the Indian Penal Code (hereinafter referred to as I.P.C.).

3. The accused person stood for trial. Copies of the relevant documents were furnished to him 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 447/506 of the IPC, the particulars of the offences were explained to the accused person by my learned predecessor-in-office to which he pleaded not guilty and claimed to be tried.

4. Prosecution in order to prove its case and to nail the guilt of the accused person has examined 1 witness namely Sri Bishwajit Gogoi being the informant as PW-1.

Prosecution has also taken the aid of the Exhibit 1 being the ejahar.

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

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

6. **THE POINT FOR DETERMINATION**

(i) Whether the accused person on 19-02-2019 at Jokai Khamtighat 32 Sand Mahol, Dibrugarh, committed criminal trespass by entering upon the sand mahal of the informant which was in his

possession with intent to annoy him and thereby committed an offence punishable u/sec 447 of the IPC?

(ii) Whether the accused person on the same date, time and place, subjected the informant to criminal intimidation by threatening him to cause injury on his person and thereby committed an offence punishable u/sec 506 of the IPC?

DISCUSSION, DECISION AND REASONS THEREOF:

7. PW-1 being the informant deposed in his evidence that the accused is known to him. There was a misunderstanding between him and the accused due to which he lodged the ejahar against the accused out of anger. He also stated that he would not like to proceed any further against the accused in the instant case as the matter has already been amicably sorted out between them. He proved Exhibit 1 as the ejahar lodged by him by identifying Exhibit 1(1) as his signature thereon.

During his cross-examination, she stated that the entire incident occurred due to some misunderstanding on the part of both the parties and that now the matter has been amicably settled between both parties. He further stated that he has no objection if the accused is acquitted in the instant case.

8. I have heard the arguments of the learned Asst. Public Prosecutor and the learned defence counsel. Perusal of the case record reveals that upon submission of the learned Asst. Public Prosecutor and his prayer for closing the prosecution evidence, the prosecution evidence was closed as the informant of the instant case have already amicably settled the matter with the accused person and there is no point in dragging the case by summoning the other prosecution witnesses. From the evidence on record, it is quite clear that all the PW-1 being the informant categorically stated in his cross-examination that he has no objection if the accused is acquitted in the instant case as he does not wish to proceed any further in the instant case. The offences u/sec 447/506 are both compoundable offences and keeping in view the deposition of the sole prosecution witness as well as in the absence of any cogent evidence, I am not inclined to hold the accused person guilty of the offences u/sec 447/506 IPC.

9. Situated thus, I am constrained to hold that the prosecution has failed to establish the guilt of the accused person, namely, Sri Pritam Gogoi u/sec 447/506 IPC beyond all reasonable doubt. As such the points of determination are answered in the negative in favour of the accused person.

ORDER

10. In view of the decision made above, the accused, namely, Sri Pritam Gogoi is acquitted of the offences under sections 447/506 IPC and set at liberty forthwith.

His bail bond 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 22nd day of December, 2021 at Dibrugarh.

Typed by: Self

Sanskrita Khanikar

Judicial Magistrate First Class

Dibrugarh

APPENDIX

A. Prosecution witnesses:-

i) Sri Bishwajit Gogoi

B. Defence witnesses:- Nil

C. Prosecution exhibits:-

i) The ejahar as Exhibit 1

D. Defence exhibits:- Nil

Sanskrita Khanikar

Judicial Magistrate First Class

Dibrugarh