

G.R. NO. 1066/2014

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

G.R. NO. 1066/2014

(U/S- 447/506 IPC)

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

Judicial Magistrate First Class, Dibrugarh

State

- VS -

Sri Chandan Dusad

S/O - Sri Ishwar Dusad

R/O - Bokul Majgaon

P.S. - Dibrugarh

Dist - Dibrugarh, Assam

.....**Accused person**

Advocate for the Prosecution : Learned Smti. Lakshmi
Mohan

Advocate for the Defence : Learned Sri Ajit Borgohain

Evidence recorded on : 04-10-2021

Argument heard on : 08-02-2022

Judgment delivered on : 15-02-2022

J U D G M E N T

1. The prosecution case in brief is that on 28-03-2014 at about 08:00 a.m., the accused person trespassed into a part of the land of Bokel Tea Estate, Dibrugarh, measuring 0 Bigha 3 Kathas 2 Lessas covered by a part of Dag No. 378 under P.P. No. 2 situated at Bokel Tea Estate, Bokpara Gaon, Mouza Mancotta Khanikar Gaon, Dibrugarh and that he forcefully and illegally started trying to keep the said land under his possession. In doing so, he also threatened the lives of the garden employees of Bokel T.E. As such, the informant/complainant Sri Pranjit Baruah being the Senior Assistant Manager of Bokel T.E. instituted the instant case against the accused.

2. A case was registered at Dibrugarh P.S. u/sec 447/506 of the Indian Penal Code (hereinafter referred to as I.P.C.) r/w Sections 4/5 of the Assam Land Grabbing Act subsequent to the lodging of this F.I.R. Upon completion of investigation, the police submitted charge-sheet against the accused Sri Chandan Dusad u/sec 447/506 of the I.P.C. r/w Sections 4/5 of the Assam Land Grabbing Act.

3. It transpires from order dated 16-05-2019 of the then learned Addl. District Judge, Dibrugarh that in the instant case the charge-sheet submitted by the police in connection with the offences of the Assam Land Grabbing Act were found invalid but so far offences under other penal statute being related to the IPC, the charge-sheet was found valid. As such, the valid part of the charge-sheet u/sec 447/506 was transferred to this Court for trial.

4. On appearance of the accused for trial, he was allowed to go on bail. Thereafter, copy was furnished to him as per section 207 Cr.P.C. After hearing and on perusal of the materials on record, the particulars of offences under section 447/506 of I.P.C. were read over and explained to the accused 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 only one witnesses, namely, Md. Hasib Ahmed @ Hasibuddin Ahmed as PW-1.

The prosecution did not exhibit any documents.

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 POINTS FOR DETERMINATION

i) Whether the accused person on 28-03-2014 at about 08:00 a.m., committed criminal trespass by entering into a part of the land of Bokel Tea Estate, Dibrugarh, measuring 0 Bigha 3 Kathas 2 Lessas covered by a part of Dag No. 378 under P.P. No. 2 situated at Bokel Tea Estate, Bokpara Gaon, Mouza Mancotta Khanikar Gaon, Dibrugarh which was in the possession of Bokel T.E. with intent to annoy and thereby committed an offence punishable u/sec 447 of the IPC?

ii) Whether the accused person on the same date, time and place committed criminal intimidation by threatening the garden employees of Bokel T.E. with injury to their persons with intent to cause them alarm and thereby committed an offence punishable u/sec 506 of the IPC?

DISCUSSION, DECISION AND REASONS THEREOF

7. PW-1 deposed in his evidence that both the informant and the accused person are known to him. The accused person is his neighbour. He stated that he does not know anything about the alleged incident.

His cross-examination was declined by the defence.

8. I have heard the arguments of the learned Asst. Public Prosecutor representing the State and the learned defence counsels representing the accused persons.

9. At the onset, it is pertinent to note that only one witness was examined by the prosecution and he being the PW 1 categorically testified that he knew nothing about the alleged incident. Despite numerous attempts, the prosecution failed to secure the presence of the other listed PWs including the informant of the case.

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 case of the prosecution and there is ample scope of reasonable doubt as to the factum of the occurrence alleged. In the absence of any cogent evidence, I am not inclined to hold the accused person guilty u/sec 447/506 IPC.

10. Situated, thus, I am constrained to hold that the prosecution has failed to establish the guilt of the accused person, namely, Sri Chandan Dusad u/sec 447/506 I.P.C. beyond all reasonable doubt. As such, the point of determination is answered in the negative in favour of the above named accused person.

ORDER

11. In view of the decision made above, the accused, namely, Sri Chandan Dusad is acquitted of the offences under section 447/506 I.P.C. 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 15th day of February, 2022 at Dibrugarh.

Typed by: Self

Sanskrita Khanikar
Judicial Magistrate First Class
Dibrugarh

APPENDIX

A. Prosecution witnesses:-

i) Md. Hasib Ahmed @ Hasibuddin Ahmed

B. Defence witnesses:- Nil

C. Prosecution exhibits:- Nil

D. Defence exhibits:- Nil

Sanskrita Khanikar

Judicial Magistrate First Class

Dibrugarh