

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

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

Judicial Magistrate First Class, Dibrugarh

Date of Judgment:-21-02-2022

G.R.Case No.1012/2018 (PRC-753/2019)

(F.I.R. No.452/2018 dated 03/04/2018

Dibrugarh P.S.Case No. 452/2018 under sections 420 IPC)

Complainant:	State of Assam
Represented By	Learned Smti. Lakshmi Mohan
Accused	Sri Bhulanath Dutta S/O - Lt. Rohit Dutta R/O - Nirmali Gaon P.S. - Dibrugarh Dist - Dibrugarh, Assam
Represented By	Learned Smti. Anju S. Gogoi

Date of Offence	14-06-1994
Date of FIR	03-04-2018
Date of Charge-sheet	30-04-2018
Date of Particulars of the Offences Explanation	25-10-2019

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Date of Commencement of evidence	21-02-2022
Date of recording Statement Defence	21-02-2022
Date of Argument	21-02-2022
Date on which Judgment is reserved	21-02-2022
Date of Judgment	21-02-2022
Date of Sentencing Order,if any	Nil

Accused Details:

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences Explained with sections	Whether Acquitted or Convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec. 428 Cr.P.C.
Accused No.1	Sri Bhulanath Dutta	Nil	16-10-2019	417 IPC	Acquitted	Nil	Nil

J U D G M E N T

1. The prosecution case as stated in the F.I.R. dated 03-04-2018 is that the informant's father Sri Dilip Dutta is a share-holder of Nirmali Gaon Bahumukhia Samabai Samity, Dibrugarh. it came to the informant's notice that on 14-06-1994, the accused, namely, Sri Bhulanath Dutta had issued No Objection Certificate to Sri Pradip Dutta, Late Ashwini Kumar Dutta and Sri Ritu Bhuyan who are

not share-holders of the said society and that such an act of the accused shows his intention of allotting the land of the society to unauthorised person for his personal gain. As such, the informant, namely, Sri Dipjyoti Dutta lodged the said ejahar.

2. A case was registered at Dibrugarh 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 Bhulanath Dutta for commission of the offence u/sec 420 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 417 of the IPC, the particulars therein under was explained to the accused person 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 1 (one) witness, namely, Sri Dipjyoti Dutta 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 14-06-1994 at Nirmali Gaon, Dibrugarh cheated the informant's father by fraudulently issuing No Objection Certificate to Sri Pradip Dutta, Late Ashwani Kumar Dutta and Sri Ritu Bhuyan who are not share-holders of Nirmali Gaon Bahumukhia Samabai Samity, Dibrugarh and thereby committed an offence punishable u/sec 417 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. He stated that his father Sri Dilip Dutta is a share-holder of Nirmali Gaon Bahumukhia Samabai Samity, Dibrugarh. It came to the informant's notice that the accused, namely, Sri Bhulanath Dutta had issued No Objection Certificate to some persons who were not share-holders of the said organisation. As such, out of anger and suspicion, he filed the ejarah in the instant case. He further stated that at

present the matter in dispute has already been amicably sorted out with the accused and that as such, he would not like to proceed any further against the accused in the instant case. He proved Exhibit 1 as the ejahar lodged by him by identifying Exhibit 1(1) as his signature thereon.

During his cross-examination, he stated that he would not like to proceed any further against the accused in the instant case. He further stated that she 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 her prayer for closing the prosecution evidence, the prosecution evidence was closed as the informant of the instant case has 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 already settled the matter amicably with the accused person and 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 417 is a compoundable offences and keeping in view the deposition of the sole prosecution

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witness as well as in the absence of any cogent evidence, I am not inclined to hold the accused person guilty of the offence u/sec 417 IPC.

9. Situated thus, I am constrained to hold that the prosecution has failed to establish the guilt of the accused person, namely, Sri Bhulanath Dutta u/sec 417 IPC beyond all reasonable doubt. As such the point of determination is answered in the negative in favour of the accused person.

ORDER

10. In view of the decision made above, the accused, namely, Sri Bhulanath Dutta is acquitted of the offence under sections 417 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 21st day of February, 2022 at Dibrugarh.

Typed by: Self

Sanskrita Khanikar

Judicial Magistrate First Class

Dibrugarh

APPENDIX

**LIST OF PROSECUTION /DEFENCE /COURT
WITNESSES**

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Sri Dipjyoti Dutta	Informant/Eye Witness

B. Defence Witnesses,if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1	Nil	Nil
DW2	Nil	Nil

C. Court Witnesses,if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
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CW1	Nil	Nil
CW2	Nil	Nil

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Exhibit -1	The Ejahar

B. Defence:

Sr. No.	Exhibit Number	Description
1	Exhibit D-1/DW1	Nil
2	Exhibit D-2/DW2	Nil

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
1	Exhibit C-1/CW1	Nil
2	Exhibit C-2/CW2	Nil

D. Material Objects:

Sr. No.	Exhibit Number	Description
1	MO1	Nil
2	MO2	Nil

Sanskrita Khanikar

Judicial Magistrate First Class

Dibrugarh