



**IN THE COURT OF THE ADDL. SESSIONS JUDGE FTC,
SONITPUR, TEZPUR. ASSAM**

PRESENT: Smt. MILI HUSSAIN, AJS
Addl. Sessions Judge (FTC),
Sonitpur, Tezpur, Assam.

Friday, 10th day of July, 2026.

SESSIONS CASE No. 221/2019
[u/s 395/427 IPC]
(arising out of Dhekiajuli PS case No. 557/13)]

Complainant	:	State of Assam
Represented by	:	Mr. N. K. Misra Learned Addl. PP
Accused Persons	:	1. Sri Jitu Talukdar @ Gospesh (A1) S/o- Late Ramesh Talukdar R/o-Santipur, PS – Dhekiajuli Dist – Sonitpur, Assam. 2. Sri Parag Haloi (A2) S/o- Sri Rabi Ram Haloi R/O- Bhairaguri PS- Dhekiajuli Dist. Sonitpur, Assam.
Represented by	:	Mr. R. Mazumdar Mr. T. Nath Learned Counsels

Date of Offence	:	02-10-2013
Date of FIR	:	03-10-2013
Date of Charge-sheet	:	27-03-2015
Date of Framing of Charge	:	15-02-2020
Date of Commencement of Evidence	:	28-08-2024
Date on which judgment was reserved	:	29-06-2026
Date of Judgment	:	10-07-2026



ACCUSED DETAILS

Rank of Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention undergone during trial for the purpose of Section 428 CrPC
A1	Jitu Talukdar	On bail	On bail	S. 395/427 IPC	Acquitted	N/A	N/A
A2	Parag Haloi	On bail	On bail	S. 395/427 IPC	Acquitted	N/A	N/A

J U D G M E N T

- The factual matrix of this case is that, informant Md Giasuddin lodged a written *ejahar* before Dhekiajuli PS stating *inter alia* that on 02-10-2013 at about 7.30 pm, informant purchased one cow from Faizul Haque of Koroiyani village and coming towards his house by a vehicle bearing registration No. AS-12E/8448(Max Sumu) and on the way, accused Parag Haloi and Jitu Talukdar along with 6/7 other miscreants wrongfully restrained them showing deadly weapon and assaulted the informant and Faizul Haque, Jalaluddin and driver of the vehicle and also looted away cash amount of Rs.45,000/- and Rs.21,000/- from Jalaluddin. The accused persons also snatched away the key of the vehicle from the driver. Subsequently, police arrived there and rescued them. Hence, Dhekiajuli PS case No. 557/2013 got registered u/s 395/397/427 IPC.



2. Police initiated statutory investigation and after completion of investigation, Charge Sheet was filed against the accused persons, namely, Jitu Talukdar (A1) and Parag Haloi(A2) u/s 395/397/427 IPC showing accused Parag Haloi as an absconder in the charge sheet.
3. Offence being exclusively Sessions triable, the learned Addl. CJM, Sonitpur, Tezpur committed the case in compliance to section 207/209 CrPC.
4. Accused persons entered appearance as per direction. The learned Public Prosecutor opened up the case and also stated by what evidence he proposes to prove the guilt of the accused persons. In due course, and upon hearing both sides, a formal charge u/s 395/427 IPC was framed against accused persons, namely, Jitu Talukdar (A1) and Parag Haloi (A2) on 15-02-2020 by then Hon'ble Sessions Judge, Sonitpur, Tezpur. The contents of charges read over and explained to the accused persons to which, they pleaded not guilty and claimed to be tried.
5. Vide order dated 24-04-2025, the case was transferred to this Court for disposal by the Hon'ble Sessions Judge, Sonitpur,Tezpur at the stage of trial.
6. The prosecution, during the course of trial, has examined altogether nine witnesses. The witnesses were cross-examined by the defence. After closer of prosecution evidence, accused persons were examined u/s 313(1)(b) CrPC wherein they denied



the prosecution case and also declined to lead defence evidence.

7. I have heard *Mr N.K. Misra*, learned Addl. P.P. for the State. I have also heard *Mr. R. Mazumdar and Mr. T. Nath*, learned Counsels for the accused persons. I have carefully perused the materials on record.

8. POINT FOR DETERMINATION

1. That on 02-10-2013, at about 7.30 pm, on the way towards home at Bhoiraguri under Dhekiajuli, you the accused persons Jitu Talukdar(A1) and Parag Haloi(A2) along with 6/7 others committed dacoity and looted cash amount of Rs.66,000/- from informant Giasuddin and his associate Jalaluddin and a spear wheel. Whether as such, accused A1 and A2 are guilty u/s 395 IPC?
2. That on the same date, time and place, the accused persons A1 & A2 committed mischief by causing loss or damage to the vehicle being No. AS-13E/8448. Whether as such, accused A1 and A2 are guilty u/s 427 IPC?

DECISION, DISCUSSIONS AND REASONS THEREOF:

9. PW-1, Md Giasuddin(the informant) identified both the accused Jitu Talukdar and Parag Haloi. He deposed that incident occurred in the year 2013. He purchased one Jersey cow from Kurkani gaon of Panchmile and taking the cow in a Maximo vehicle to his village Sungasudhi and they embarked onto the road from National High way through Santipur road. After passing through half of the Santipur road, they heard hue and cry at around 6.30 to 7.00 P.M., shouting as "chur", "chur". Then they



stopped their vehicle in the road and the accused persons along with other persons charged them of having committed theft. Then accused Parag Haloi forcefully occupied the seat of driver by pushing the driver and other passengers including him from the vehicle and took reverse. Thereafter, accused persons caused damage to the vehicle near a culvert. In the mean time, one Bhupen Haloi took him to his house. When they were sitting in the house of Bhupen Haloi, Jitu Talukdar along with around 6/7 persons came to the house of Bhupen Haloi and forcefully took away Rs. 45,000/- from his pocket and fled away from the scene then and there. Thereafter, his brother Mainul Islam informed the police over phone. Police of Borsola Out post later on, recovered him from the house of Bhupen Haloi. Police took him to Dhekiajuli police station along with the vehicle. Police then asked him to furnish purchase slip of the seized cows. Then police also gave the zimma of the cow to him after verifying the authenticity of the fact. Thereafter, he lodged ejahar. He identified the ejahar as Exhibit. 1 bearing his signature Exhibit. 1(1). He also stood as a seizure witness to the vehicle. He also proved the seizure list Exhibit. 2 regarding seizure of vehicle bearing registration No. AS 12 B 8448 wherein, he put his signature. Put to cross-examination, PW1 pleaded ignorance about the scribe of the ejahar. He deposed that the ejahar was written as per his version and consent. PW-1 deposed that his house is situated around 2 km away from Bhoiraguri and when they reached Bhoiraguri it was dark at that time. He deposed



that when they heard people shouting "chur", "chur", they stopped their vehicle in front of the house of Rajani Haloi. There were around 15/20 people, however, he could not identify each and every person. PW1 denied to suggestion that the stolen cows were passed through the Santipur road to the bank of River Brahmaputra from where they were taken to different places. PW1 stated that on the relevant day, he took Rs. 70,000/- (Rupees Seventy Thousand only) for purchasing cow and he purchased the Jersey cow at consideration of Rs. 43,000/-. PW1 denied to suggestion by defence that on the relevant day he committed theft of cows. He further denied to suggestion that no money were snatched away from him. PW1 also denied to suggestion that he deposed false evidence and that he did not state before police that "after passing through half of the Santipur road they have heard hue and cry around 6.30 to 7.00 P.M. shouting as "chur", "chur" and then they stopped their vehicle on the road."

10. PW2- Bhupen Haloi identified both the accused Jitu Talukdar and Parag Haloi. He also identified the informant Giasuddin as well. On the day of incident, Giasuddin bought a cow in a Maximo vehicle and he was caught by public on the road. The villagers signaled to stop the vehicle but when the vehicle did not stop, villagers chased the vehicle and caught. One Anil Das informed him about the incident. When he reached the spot and saw a gathering, someone from the gathering tried to assault



Giasuddin. But he restrained public from assaulting Giasuddin. Then he took Giasuddin to his house in his bike. Then police came and took Giasuddin to Borsola Out Post under Dhekiajuli police station. Police also seized the vehicle along with the cow. Put to cross by defence PW2 deposed that he was Secretary of Village Defence Party since 2003 and during the period 2009, there was commission of theft of cows and stolen cows used to be carried through the Santipur road to the bank of Brahmaputra. Village youth of Singimari and Bhairaguri used to remain alert so that no offence takes place there. He deposed that in his presence no money or anything were taken away by anyone from Giasuddin. He deposed that to his knowledge, the boys stopped the vehicle in good faith for carrying stolen cows.

11. PW-3 Md Jalaluddin also identified accused Jitu Talukdar and Parag Haloi. Incident occurred in the year 2013 at night at around 9-9.30 PM. One Giasuddin purchased one Jersey cow from Panchmile market and he asked PW3 to carry the same in his Maximo Mini Truck from Panchmile market to his residence at Borsola and during the journey they stopped at Sirajuli centre took tea there. Thereafter Giasuddin told him that he wanted to meet his owner and to show the jersey cow to him. After crossing Sirajuli centre they entered towards the village and on the left side of the National High Way and 3/4 persons tried to stop their vehicle by flashing torch light. But finally those persons stopped their vehicle after chasing them at a little dis-



tance. Then they brought them back and assaulted them in a club house by the side of the road but in the mean time Giasuddin disappeared. Then there was a gathering on the spot. Police also reached the spot sometime back on being informed by someone. Then police save them from public rage and took them to the police station. Public also caused damage to the vehicle. For that night police kept the vehicle and jersey cow in the police station. Subsequently police handed over the cow to Giasuddin and the vehicle was returned to me. Put to cross PW3 deposed that he was not present at the time of purchase of jersey cows by Giasuddin. He was driver and was sitting in the vehicle owned by his brother. However he deposed that it is learnt that Giasuddin purchased the cow from Fazar.

12. PW-4 Sultan Ahmed deposed that he does not know accused persons. Incident occurred about 8/9 years back. On the day of incident, he being the driver by profession, was taking a cow along with animal food from Tezpur Panchmile village to Sirajuli. The owner of the cow was Giasuddin and he was in his vehicle. The brother of the owner of the vehicle, Jalaluddin also accompanied them. When they were proceeding by Sirajuli Borsola road they were stopped by 3/4 persons who assaulted all of them. Then out of fear he fled away from the place of occurrence. Later on he came to know that police picked up the vehicle along with the cow to the Dhekiajuli police station. He brought his vehicle after three days of incident from Dhekiajuli



police station. Regarding the incident FIR was lodged at Borsola Out Post. Police seized the documents of the vehicle along with his driving license. He identified the seizure list as Exhibit 2 bearing his signature Exhibit. 2(2). The vehicular documents were given zimma to the owner of the vehicle. Put to cross by defence PW4 denied to suggestion that he did not state to police about accused assaulted them on their way. He also denied to suggestion that he did not state to police that he fled away leaving the vehicle when the accused started assaulting.

13. PW-5 Md Rafiqul Islam deposed identified both accused Jitu Talukdar and accused Parag Haloi. He deposed that incident occurred in the year 2013 at night but he could not remember the date. On that day, Giasuddin was transporting cow from Tezpur Panchmile to his residence at Sunabudhi village under Dhekiajuli PS in a Maximo vehicle. On his way, two persons namely, Jitu Talukdar and Parag Haloi stopped him and quarreled with him. All the aforesaid facts have been stated to him by Giasuddin and VDP Secretary Bhupen Haloi. When Giasuddin lodged FIR regarding the incident police came and took the vehicle along with the cows and gave zimma of the cows to Giasuddin in his presence. He identified the seizure list as Exhibit. P 3 wherein Exhibit. P3(1) is his signature (MR No. 146 of 2013 dated 03-10-2013). Put to cross, PW5 deposed that the distance between Bhergaon and his village Sengelimora is about 4 km , while Dhekiajuli PS is about 15 km away from their village



Sengelimora. In 2013 he was VDP Secretary and in that connection he used to visit Dhekiajuli PS. When he was sitting in Dhekiajuli PS informant came to lodge FIR and IO took his signature on the seizure-list Exhibit.P3.

14. PW6 Md Jamir Ali deposed that the incident occurred about 9 years back at night but he could not remember the date. His father-in-law Giasuddin purchased one Jarsy cow along with calf and transporting the same to his house at Sunabudhi village but on the way some persons stopped the vehicle and caused damaged. Then on being informed police reached the spot and took the vehicle and the cow along with calf to the police station. Police also seized one purchased receipt produced by my father-in-law. He deposed that the Jersey cow was red brown in colour with two horn height about 5 ft. He identified the seizure list of the receipt Exhibit.P.3 wherein Ext. P3(2) is his signature (MR No. 146 of 2013 dated 03-10-2013). Later on police again gave zimma of the Jarsy cow and calf to his father-in-law along with the receipt. Defence declined to cross-examine the PW6.

15. PW7 Md Sabiqul Islam identified both the accused Jitu Talukdar and Parag Haloi. He deposed that the incident occurred in the year 2013. On the day of incident Giasuddin was carrying one cow and calf in a 407 vehicle, to his residence, at Sunabudhi village, when on the way someone stopped the vehicle for which there was a quarrel/altercation between them. The villagers gathered and police also reached the spot. PW7



stated that he went there to see the incident. Police then took the vehicle along with the cows, Giasuddin and driver of the vehicle to Dhekiajuli police station. He further stated that police seized the cow and vehicle and he identified the seizure list Exhibit.P3, wherein he put his signature. Put to cross-examination, PW7 deposed that he knows the contents of the seizure list.

16. PW8, Md. Faizul Haque deposed that he does not know accused Jitu Talukdar and Parag Haloi however, he identified the informant Giasuddin. Incident occurred about 7/8 years back. Giasuddin purchased cows from Napam village and was carrying the cow in a red colour Mahendra Pick up Van (Magic) along with food grains. PW-8 deposed that he accompanied the him on that day and they took tea at Sirajuli centre. Then they proceeded to the by lane of Chungabudhi village. At about 7 PM, 4/5 persons in motor cycle followed them. Then Giasuddin told the driver to stop the vehicle in front of the house of college lecturer to know why the said persons were following them. But as soon as vehicle was stopped, the persons chasing them in the motor cycle, pulled up the driver Jalaluddin from his seat and gave fist blow on him, questioning him where from he had stolen the cow. Then Giasuddin intervened and told that if they had anything to say, they can have a talk with him, not to the driver. Then they also attacked Giasuddin with fists. Moreover, they forced Giasuddin and Jalaluddin to return the vehicle along



with the cow to the nearby LP school where they again assaulted Giasuddin and the driver of the vehicle. PW8 deposed that he stayed in the house of professor. In the mean time, police came and took Giasuddin and Jalaluddin and the cow along with the vehicle to Dhekiajuli police station. Then police also took away PW8 from the house of the professor to the Borsola Police Out Post. Then police seized the vehicle by one seizure list and seized the cows vide another seizure list. PW8 identified the seizure list as Exhibit. P2 (vide MR No. 147/13), wherein he put his signature. Put to cross by defence PW8 deposed that he does not know from whom Giasuddin purchased the cows. However, he deposed that Giasuddin is a cattle trader. He failed to state about the contents of seizure-list Exhibit.P2.

17. PW9 Inspector Omar Faruk deposed that on 02-04-2014 he was posted as Attached Officer (Sub Inspector) at Dhekiajuli Police Station. On that day, the officer-in-charge Inspector Tileswar Saikia re-endorsed the Dhekiajuli PS case No.557/2013 u/s 395/397/427 of IPC in his favour for completion of investigation. On perusal of case diary PW9 found that the case was earlier investigated by SI M. Sarmah but he could not arrest the accused persons. Accordingly, PW9 sought advice of the officer in charge and he suggested PW9 to submit charge sheet showing the accused as absconder. Accordingly, after going through the case diary, having found sufficient evidence, PW9 laid charge sheet against accused Jitu Talukdar @ Gopesh and



Parag Haloi u/s 395/397/427 of IPC. PW9 identified the charge-sheet Exhibit.P4/PW9, wherein he put his signature. Put to cross-examination, PW9 he denied to suggestion that he did not submit charge-sheet as per law.

Analysis

18. In this case the accused persons are facing trial u/s 395 IPC.

The essence of proof u/s 395 IPC are:

- i. accused persons were five or more in number who committed or attempted to commit robbery;
- ii. all such persons were acting conjointly;

19. Section 391 IPC defines dacoity and *per se* the Section, the offence of robbery assumes the character of dacoity when it is committed conjointly by five or more persons. The word "conjointly" refers to unified or concerted action. The element of jointness in action is an essential ingredient to constitute the offence. Reverting back to evidence in case record and keeping in mind that all robberies may be either theft or extortion, it appears that PW1 purchased one jersey cow from Kurkani gaon and taking the cow in Maximo vehicle was carrying the same to his village Sungbudhi by village road from National Highway through Santipur road. His evidence shows that the two accused persons shouting "*chur, chur*" stopped their vehicle on road and that they with others charged them of having commit-



ted theft. He deposed that accused Parag haloI forcefully occupied the driver's seat and turned the vehicle in reverse direction. Accused persons caused damage to the vehicle. It is also borne in evidence that co-accused Jitu Talukdar and other 6/7 persons came to house of Bhupen HaloI and forcefully took Rs. 45,000/- from PW-1's pocket and fled away. PW1's brother Moinul Islam informed police. Notably, said Moinul Islam is not shown as a witness in the charge-sheet. It is borne in cross-examination part of PW1 that he purchased the jersy cow at consideration of Rs. 43,000/- but prosecution failed to adduce any documentary evidence in that regard.

20. PW2 is Secretary of Village Defence Party who testified that since 2013 there was commission of theft of cows and stolen cows passed through Santipur road to the bank of Brahmaputra in an attempt to nab commission of offence through Santipur road. He did not support PW1 that money was taken away by anyone from Giasuddin or that Giasuddin got attacked by anyone or that he sustained hurt.

21. It appears that PW3 deposed that subsequently police handed over the cow to Giasuddin and the vehicle was returned. Even he deposed in cross-examination that he was not present at the time of purchase of Jersy cow by Giasuddin. It appears from his evidence that he was driving in driver seat of the vehicle at the relevant time and the vehicle belonged to his brother. The factum of presence of PW3 (Jalaluddin) at the relevant time, also



deposed by PW4. The factum of giving the cow in zimma to Giyasuddin by police, seized by Exhibit.P3 seizure-list also supported by PW5 and also by PW6 vide MR No. 146/2013.

22. PW7 is a seizure witness only.

23. Theft is robbery, if in order to commit theft or in committing the theft or in carrying away or attempting to carry away property obtained by theft, the offender towards that end voluntarily causes or attempts to cause hurt. Hon'ble Supreme Court illustrated the point in *Harish Chandra v State* **AIR 1976 SC 1430: 1976 Cr LJ 1168**, where in a train the victim Avinash Kumar was relieved of his watch by one of the accused Ram Avatar, and the victim raised an alarm when the other accused Harish Chandra slapped him. It was held the hurt caused to the victim, in order to facilitate the commission of the offence, clearly fell within the purview of Sec. 390 IPC.

24. In this case notably, there is total dearth of evidence that PW1 sustained any sort of injury at the instance of the accused persons or that accused persons or any of them attacked PW1. PW1 Giyasuddin did not depose that he or PW3 sustained injury. PW3, the driver also did not testify that he sustained injury. This court has taken note of the position in evidence led by prosecution that more than two persons were involved in the occurrence although name of those persons does not find place in evidence. There is no medical evidence in regard to hurt sus-



taining by PW1. Again, it appears that PW1 testified about accused person taking away Rs. 45,000/- from him while PW1 also testified that he brought Rs. 70,000/- on that day to purchase cows. But beside PW1 other witnesses are silent in this regard. There is no convincing evidence to believe that Parag Haloi took away Rs. 45,000/- from possession of PW1 without the latter's consent. In view of deficiencies in these aspects, it appears that essence of proof for "robbery", lacks in evidence against the accused persons both. Close scrutiny of Exhibit.1 (ejahar) shows that prosecution case cited that accused persons looted a total Rs. 66,500/- but the star witness PW1 failed to substantiate said aspect. This Court is not oblivious that ejahar in a criminal case is not a piece of substantive evidence but this cannot be ignored that prosecution case took momentum on the basis of Exhibit.1 ejahar.

25. In view of above analysis, it appears that prosecution failed to discharge the static burden u/s 100/101 Evidence Act (now BSA) as against the accused persons in proving Section 395 IPC.

26. Likewise, it appears there is dearth of convincing evidence in support of charge u/s 427 IPC against accused persons. The essence of proof u/s 427 IPC is commission of mischief, causing loss or damage amounting to not less than Rs. 50,000/-. It appears from the evidence that the genesis of prosecution case itself is doubtful as it is borne in evidence of the VDP Secretary



concerned of the village PW2, that at that time, rampant theft cases of cows were prevalent in the village and the youths were vigilant to curb that menace. There is impression in the evidence that the case might have arose due to some confusion at that time as Giyasuddin used to deal in cattles as surfaced vide evidence. It appears evidence led by prosecution also shows involvement of village people. It appears evidence led by prosecution also shows involvement of village people.

27. Both the accused person in their statement (recorded separately) pleaded innocence and stated that at the relevant time there cattle theft cases were rampant in their village. There was chaos in their village regarding theft of cattles and when they reached the place of occurrence, someone informed them that few cattle thieves were caught.

28. Considering above analysis, this Court is of measured opinion, that prosecution failed to prove the case beyond reasonable doubt u/s 395/427 IPC.

ORDER

29. Accused **Jitu Talukdar @ Gopesh (A1) and Parag Haloi (A2)** are acquitted of charge u/s 395/427 IPC. They are set at liberty. Their bail bonds stands extended for a period of six months from today u/s 437A of CrPC.



30. Send back the case-record GR Case No. 2560/2023(with CD) along with a copy of this judgment to the learned Court below.

GIVEN under my hand and seal of this Court on this 10th day of July, 2026 at Tezpur, Assam.

(MILI HUSSAIN)
Addl. Sessions Judge (FTC),
Sonitpur, Tezpur

**APPENDIX****LIST OF PROSECUTION/DEFENSE/COURT WITNESSES****A. Prosecution**

Rank	Name	Nature of Evidence
PW1	Md. Giasuddin	Informant
PW2	Sri Bhupen Haloi	Other Witness
PW3	Md. Jalaluddin	Other Witness
PW4	Md. Sultan Ahmed	Other Witness
PW5	Md. Rafiqul Islam	Other Witness
PW6	Md. Jomir Ali	Other Witness
PW7	Md. Sabiqul Islam	Other Witness
PW8	Md. Faizul Haque	Other Witness
PW9	Inspector Omar Faruk	Police Witness

B. Defense Witness, if any

Rank	Name	Nature of Evidence
		NONE

C. Court Witness, if any

Rank	Name	Nature of Evidence
		NONE

LIST OF PROSECUTION/DEFENSE/COURT EXHIBITS**Prosecution**

Sl. No.	Exhibit No.	Description
1	Exhibit.1	Ejhar
2	Exhibit.2	Seizure-list
3	Exhibit.P3	Seizure-list
4	Exhibit.P4	Charge-sheet

Defence

Sl. No.	Exhibit No.	Description
		NONE

Court Exhibit

Sl. No.	Exhibit No.	Description
		NONE

Material Objects

Sl. No.	Exhibit No.	Description
		None

(MILI HUSSAIN)

Addl. Sessions Judge (FTC),
Sonitpur, Tezpur