

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,
GOLAGHAT**

Present : NAGUIB AHMED, A.J.S,

M.Sc. (Agriculture), LLB,

CHIEF JUDICIAL MAGISTRATE,

GOLAGHAT

(11.09.2024)

(Case No. PRC 869/2022)

(Details of FIR/Crime and Police Station)

COMPLAINT:	STATE OF ASSAM OR NAME OF THE COMPLAINT Sri Matadeen Sharma
REPRESENTED BY	NAME OF THE ADVOCATE Smt. R. Bhattacharya
ACCUSED	Sri Kiran Nayak S/O- Lt. Uma Nayak Vill- Usha Goronga P/S- Ghiladhari Dist- Golaghat

PRESENTED BY	NAME OF THE ADVOCATES Sahnaz Begum
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Date of Offence	<u>28.09.2022</u>
Date of FIR	<u>28.09.2022</u>
Date of Charge sheet	<u>30.09.2022</u>
Date of Framing of Charges	<u>07.12.2022</u>
Date of commencement of evidence	<u>05.01.2023</u>
Date on which judgment is reserved	<u>11.09.2024</u> <u>(Date of Argument)</u>
Date of Judgment	<u>11.09.2024</u>
Date of the Sentencing Order, if any	<u>N.A.</u>

Accused Details:

Rank of the Accused	Name of Accused	Date of Arrest	Date Releases on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec. 428 Cr.P.C.
1.	Sri Kiran Nayak	28.09. 2022	02.02.2023	380 IPC	Acquitted	N.A.	127 days

JUDGMENT

1. The prosecution case in brief is that the informant Sri Matadeen Sharma filed the First Information Report (FIR) stating *inter-alia* that on 28.09.2022 at about 12:00 PM someone had stolen 24 bottles of Mustard Oil from the *Godown* of the informant. Hence, the case.
2. The case was brought into motion by a written *Ejhar* filed on 28.09.2022 before the Officer-in-Charge of Golaghat Police Station. Thereafter, the Officer-in-Charge, Golaghat Police Station (PS) had registered a case as Golaghat PS case No.268/2022 dated, U/S-380 of the *Indian Penal Code* (IPC).
3. On the basis of the *Ejhar* police started investigation and after completion of investigation the police found sufficient material against the accused person Sri Kiran Nayak for the offence U/S-380 of the Indian Penal Code and hence, submitted charge-sheet for the said offence against him vide charge-sheet No.261/22dated 30.09.2022.
4. On submission of the charge-sheet, the case was transferred to this court for disposal. Upon receipt of the case record, this Court took cognizance of the offence U/S-380 of the Indian Penal Code against the accused person Sri Kiran Nayak and proceeded with trial against him. During trial, copies of relevant documents were furnished

to the accused person and finding sufficient materials on record to proceed for the offence U/S-380 of the Indian Penal Code against the accused Sri Kiran Nayak, charge for the said offence was framed against him. The charge was then read over and explained to the accused person and on being asked as to whether he pleads guilty to the offence charged, he pleaded not guilty and claimed to be tried.

5. In the course of hearing, the prosecution examined one witness who is the informant and also exhibited the zimmanama as Exhibit P-1 and *Ejahaar* as Exhibit P-2.
6. The examination of the accused person U/S-313 Cr.P.C was dispensed with as no incriminating materials came out against him during trial.
7. Defence story is of total denial. Moreover, defence side declined to adduce any evidence.

8. **Point for determination:-**

- (i) *Whether the accused person Sri Kiran Nayak on 28.09.2022 at Alupatti, Golaghat had committed theft of 24 numbers of Mustard Oil bottles from the informant's Mustard Oil Godown without his consent by entering into the said Godown and thereby committed an*

offence punishable U/S-380 of the Indian Penal Code?

9. Discussion, Decision and Reasons thereof:-

10. Let for better appreciation of the evidence the above point be taken up for discussion.

11. I have heard the arguments of both the sides. Perused the case record very minutely. My findings are as follows:-

12. The defence argued that the prosecution failed to prove the allegations labeled against the accused person whereas the prosecution argued otherwise.

13. Hence, let's look into the evidence put forth by the witness of the prosecution to find out as to how far they could prove their case.

14. PW-1; Sri Matadeen Sharma; is the informant of the case. He has deposed that he does not know the accused. He further deposed that he had filed this case against the accused person but now they have settled the dispute amongst themselves. He further deposed 24 numbers of the Mustard Oil bottles were stolen by somebody from the *Godown* from his business establishment at *Golaghat Furkating (GF)* Road. On the next day of the theft, police recovered the

said 24 numbers of Mustard Oil bottles and gave *zimma* of the bottles to him.

15. **Exhibit P-1** is the *zimmanama*
16. **Exhibit P-1(1)** is his signature.
17. As he has got back his goods hence he does not want to proceed with the case.
18. He has filed the FIR.
19. **Exhibit P-1** is the Ejahar.
20. **Exhibit P-2(1)** is his signature.
21. During his cross-examination he has deposed that he does not have any objection, if the accused person is acquitted.
22. Thus, perusal of the evidences adduced by the witness examined by the prosecution clearly shows that inspite of being the informant himself failed to support the case of the prosecution.
23. Hence, I am of the considered opinion that the prosecution failed to prove beyond all reasonable doubts that on 28.09.2022 at about 12:00 PM the accused Sri Kiran Nayak had committed theft of 24 numbers of Mustard Oil bottles from the informant's Mustard Oil Godown without his consent by entering into the said *Godown* and thereby committed offences punishable U/S-380 of the Indian Penal Code.
24. The conviction of an accused cannot be founded on the basis of mere inference. Offence

should be proved against accused beyond reasonable doubt either by direct evidence or even by circumstantial evidence if each link of chain of events is established pointing towards guilt of accused. Prosecution has to lead cogent evidence in that regard so far it satisfies the essentials of a complete chain duly supported by appropriate evidence.

25. Subsequently on the basis of the discussions made above, the accused person cannot be held guilty of the alleged offences U/S-380 of the Indian Penal Code.

26. **ORDER**

27. Hence, considering the above discussions, I am of the considered opinion that the accused Sri Kiran Nayak is found not guilty of the offence punishable U/S –380 of the Indian Penal Code and accordingly he is acquitted of the accusations/allegations labeled against him.

28. The bail bond of the accused person will remain in force for six months from today.

29. The judgment is delivered and operative part of the same is pronounced in the open court, today, the 11th day of September, 2024 under my hand and the seal of this Court.

**Chief Judicial Magistrate,
Golaghat.**

**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)
PW-1	Sri Matadeen Sharma	Informant

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
	NIL	

C. Court witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS,
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		POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
	NIL	

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Exhibit P-1	Zimmanama
2	Exhibit P-2	Ejahaar

B. Defence:

Sr. No.	Exhibit Number	Description
		NIL

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
		NIL

D. Material Objects:

Sr. No.	Exhibit Number	Description
		NIL

**Chief Judicial Magistrate,
Golaghat.**

Typed by Stenographer

Dictated and checked

Chief Judicial Magistrate,
Golaghat.