

APPENDIX – 12

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
SONITPUR**

Present: Adrita Goswami, JMFC, Tezpur, Sonitpur

(Date of Judgment)

13.09.2023

(P.R. Case No. 1682/2022)

(Chariduar Police Station Case No. 200/2022 registered
under Section 379, IPC)

COMPLAINANT:	State of Assam
RESPRESENTED BY:	Sri Anand Sahani, Learned Assistant Public Prosecutor
ACCUSED:	1. Sri Mohan Rai @ Tuntun S/o Sri Butan Rai R/o Chandmari P.S. Chariduar District: Sonitpur 2. Sri Pachang Lama @ Passang S/o Sri Asiram Lama R/o Abalagaon/Ouhalagaon P.S. Chariduar District: Sonitpur
REPRESENTED BY:	Sri Debasish Borah, Learned Counsel

APPENDIX – 13

Date of Offence	03.11.2022
Date of FIR	03.11.2022
Date of Charge sheet	26.11.2022
Date of Framing Charge	28.07.2023
Date of commencement of evidence	11.09.2023
Date on which judgment is reserved	11.09.2023
Date of judgment	13.09.2023
Date of the Sentencing Order, if any	None

ACCUSED DETAILS

Rank of the 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 purpose of Section 438 Cr.P.C.
A-1	Sri Mohan Rai @ Tuntun	05.11.2022	14.02.2023 (PR Bond)	Section 379, IPC	Acquitted	None	100 days
A-2	Sri Pachang Lama @ Passang	07.11.2022	14.02.2023 (PR Bond)	Section 379, IPC	Acquitted	None	98 days

APPENDIX – 14**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 Nilutpal Borah	Informant

B. Defence Witness, if any:

Nil

C. Court Witnesses, if any:

Nil

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS**A. Prosecution:**

Sr. No	Exhibit Number	Description
1	Exhibit P-1/PW-1	Ejaha
2	Exhibit P-1(1)/PW-1	Signature of PW-1 in Ejaha

B. Defence:

Nil

C. Court Exhibits:

Nil

D. Material Objects:

Nil

JUDGMENT

- 1.** The prosecution in this case was launched by the lodging of the Ejahar with the Officer-in-Charge of the Chariduar Police Station by the informant, Sri Nilutpal Borah, on 03.11.2022 to the effect that on that day at about 04:00 PM, the accused persons, Sri Mohan Rai @ Tuntun and Sri Pachang Lama stole a 12 Volt battery from his ECO MET truck bearing registration number AS-12-BC-5409 while he had kept his aforesaid truck at Bhakatgaon Tiniali in his village.
- 2.** The police upon receipt of the Ejahar registered Chariduar Police Station Case No. 200/2022 under Section 379 of the Indian Penal Code and endorsed WSI (P) Stuti Chutia to investigate the case.
- 3.** The Investigating Officer, being charged with the investigation, went to the place of occurrence, drew rough sketch map and interrogated the witnesses. The accused persons were arrested who were thereafter forwarded to judicial custody. The stolen articles were also seized. After completion of the investigation, the Investigating Officer submitted charge-sheet against the accused persons, Sri Mohan Rai @ Tuntun and Sri Pachang Lama @ Passang, under Section 379 of the Indian Penal Code.
- 4.** The accused persons were released on bail thereafter. They were furnished copies of all the relevant documents as mandated under Section 207 of the Cr.P.C.
- 5.** Upon hearing and on perusal of the record, the contents of the charge under Section 379 of the IPC were read over and explained

to A-1 and A-2 to which they pleaded not guilty and claimed to be tried.

6. To bring home the charge, the prosecution examined one witness and exhibited two documents. The statement of defence under Section 313 of the Cr.P.C. was dispensed with in the absence of any incriminating material against the accused persons.
7. Argument was heard on behalf of both the sides. The Learned Counsel for the defence submitted that there is no material against the accused persons; as such the accused persons need to be acquitted.

POINTS FOR DETERMINATION

8. Upon hearing the Learned Counsel for both sides and on perusal of the record, I have formulated the following point for determination:
 - i. Whether A-1 and A-2, on 03.11.2022 at about 04:00 PM at Bhakatgaon Tiniali under Chariduar Police Station, committed theft of a 12 Volt battery from the ECO MET truck of the informant bearing registration number AS-12-BC-5409 which was kept parked there and thereby committed the offence under Section 379 of the IPC?

DECISION, DISCUSSION AND REASONS THEREOF

9. I have carefully perused the materials on record and heard the Learned Counsel for both the sides to arrive at a definite finding as regards the point for determination.

10. PW – 1, Sri Nilutpal Borah, who is the informant of the instant case deposed that a 12 Volt battery was stolen from his vehicle. He deposed that he had not seen who had stolen the battery and had heard about the miscreants from some villagers. He also deposed that he did not remember when the incident took place. PW-1 further deposed that he had already got back the stolen battery. PW-1 exhibited the Ejahar as Exhibit P-1/PW-1 and his signature therein as Exhibit P-1(1)/PW-1. The defence declined to cross-examine PW-1.

11. It is clear from the testimony of the informant who is also the victim of the case, that he has not supported the prosecution story and has not incriminated the accused persons in any manner.

12. In the facts of the present case, the prosecution has failed to bring home the charge against A-1 and A-2. The prosecution has failed to prove beyond reasonable doubt that A-1 and A-2 had committed the offence under Section 379 of the IPC. Situated thus, the evidence does not point towards the guilt of A-1 and A-2 and the point of determination is answered in the negative.

ORDER

13. Thus, in view of the discussions made above and the decision reached therein, it is held that the prosecution has failed to prove beyond reasonable doubt the charge against the accused persons, A-1 and A-2; as such the accused persons are not guilty of the charge under Section 379 of the IPC and acquitted.

14. The case is disposed of on contest.

- 15.** The bail bonds of the accused persons stand extended for a period of six months in compliance with Section 437A, Cr.P.C.

Given under my hand and the seal of this Court and delivered in the open Court on this the 13th day of September, 2023 at Tezpur, Sonitpur.

Typed by me:

Adrita Goswami
Judicial Magistrate First Class, Tezpur, Sonitpur