TRDL020002602022

FORM-A

In the Court of **Judicial Magistrate 1st Class,** **Ambassa, Dhalai Judicial District.** **CASE NO.PRC (WP)- 13 of 2022** **Present: Miss. Ranjabati Roy.** **Date of the Judgment: 15 of March, 2024** **(Details of FIR/Crime and Police Station)**

Complainant	**State of Tripura**
Represented by	**Mr. Subrata Datta, Ld. APP.**
Accused	**Sri. Dilip Goswami**
Represented by	**Mr. U.K Sarma Ld. Defence Counsel.**

FORM B

Date of offence	**10.08.2006**
Date of FIR	**16.10.2021**
Date of Charge sheet	**31.03.2022**
Date of Framing of Charges	**25.01.2023**
Date of commencement of evidence	**09.03.2023**
Date on which judgment is reserved	**Nil**
Date of the Judgment	**15.03.2024**
Date of the Sentencing order, if any	

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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 428 Cr.P.C.
01.	**Sri. Dilip Goswami.**	**Nil**	**Nil**	**U/S-420/506 of IPC.**	**Acquitted**	**Nil**	**Nil**

J U D G M E N T

1. The facts of the prosecution case in view of F.I.R :- This is a case U/S420/506 of Indian Penal Code,1860 registered upon a complaint petition of the complainant.

2. The synopsis of the prosecution case in brief is that on 10.08.2006 the victim namely Smti. Arati bala Biswas W/o- Sri.Kajal Biswas of Kachucherra, P.S- Ambassa, Dhalai Tripura executed a power of attorney in favour of the accused person. The complainant alleged that the accused person inserted the complainant to give her allotted land to them and by exchange of that they promise to provide one government job.

But the complainant only agreed to provide the power of attorney for the purpose of looking after the land. Meanwhile on 20.02.2006 one prayer was submitted before the DM and

Collector of Ambassa which had the signature of the complainant for obtaining permission of sale of the allotted land. The complainant alleged that the signature was taken in a fraudulent way. Thereafter on 10.08.2006 on power of attorney was executed in which fraudulently the words like sale, transfer of property was inserted without intimating the complaint which she signed on good faith. Few days after when the complainant asked about the job the accused person to refused and stated to her that she had no rights left with the concerned property. After that on 14.11.2011 she revoke the power of attorney before the sub-register.

Thereafter FIR was registered and finally charge sheet was submitted U/S- 420/506 of IPC, against the A/P namely namely 1. Sri Dilip Goswami, S/O-Sri Harinarayan Goswami , of-Jawharnagar BSF gate no.4, PS- Ambassa, Dhalai Tripura and thus obliged thereby.

3. Charge was framed and stated to the accused person, in a separate sheets of paper and read out to them in an open court having understood both of them denied the allegation made against them and claimed to stand the tried but when asked both of them declined to adduce evidence on their defence.

The trial of the instant case thus began.

4. The defence case is a total denial one. Accused person was examined U/S 313 (1)(b) Cr.P.C when they denied all the incriminating materials put to them but expressed their unwillingness to adduce evidence in their defence.

5. Prosecution adduced all together 05 (fight) witnesses including the informant this case to bring home the charges against the accused person. Defence, on the other hand did not examine any witnesses. Ld. defence counsel submitted that prosecution story was a false and concocted one. He further submitted that no such incident took place nor the accused persons were involved in any such kind of alleged incident.

6. Thereafter, arguments were heard from both the sides at length.

7. After hearing learned counsels appearing for the prosecution and the accused person and after considering the evidence on record the following points for determination are drafted for the adjudication of the case :-

I. *Whether on* 10.08.2006 *and thereafter at any time at Jawharnagar under Ambassa P.S. the accused person cheated upon the complainant by dishonestly inducing her to deliver her allotted landed property by giving a false promise to provide her one Govt. job in exchange of her allotted land and thereby altered or destroyed the whole of any part of valuable security or anything which is signed or sealed which is capable of being converted into a valuable security and thereby committed an offence under section 420 of IPC ?*

II. *Whether on the alleged date time and place whenthe complainant asked him about the government job that he had promised in exchange of her land the accused person threatened her with dire and thereby committed an offence under section 506 of IPC ?*

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EVIDENCE ON RECORD

8. **P.W. 1- Smt. Mangaldon Halam** deposed in examination-in-chief that she knows the complainant of this case Smt. Arati Bala Das. It is known to him that Smt. Arati Bala Das has filed a complain against Sri Dilip Goswami for dishonestly taking her land. It is not known to her whether the said allegation is true or false. She further stated that at present she is the process server of SDM Office, Ambassa and she has served notice on Smt. Arati Bala Das and Sri Dilip Goswami. She also stated that Smt. Arati Bala Das resides far away from her place and she did not know any thing about the instant case.

9. **P.W. 2- Smt. Aroti Bala Biswas** deposed in examination-in-chief that she is the complainant of the instant case and she filed the complaint against Sri Dilip Goswami. She used to work as an house help at the house of Dilip Goswami and he promised her to provide a government job in lieu of looking after her property. As far as she can recall in the year 2006 she has signed some documents on behalf of Dilip Goswami at his instance only for the purpose of looking after and taking care of her land. The contents of the documents were not read over to her and she has singed it as she trusted him. She also stated that she signed the power of attorney knowing that it is a document for providing him government job. Within a year Dilip Goswami informed him that she has endorsed the power of attorney in his name and she has no right left regarding the concerned property. Thereafter, she

approached before the DM, Ambassa Dhalai for cancellation of the said power of attorney. She had 5 and ½ kani of land in her name from which Dilip Goswami transferred 2 Kani's of land at his name stating that she is in need of that land for her daughter's marriage. For getting the allotted land transferred in his name he had forged her signature at the 'Prayer for sale permission of allotted land' for obtaining the permission of DM. This is the document of power of attorney and she has put her five signature's on it's first, second, third, forth pages which on identification is marked as Exbt. P2/PW2, P3/ PW2, P4/ PW2, P5/ PW2 and P6/ PW2 respectively. She has provided the birth certificate of her daughter, the Power of attorney, the prayer for cancellation of power of attorney, prayer for sale permission of allotted land, demarcation documents to the I/O of the instant case for the purpose of seizing the following documents. She has received a copy of seizure list and she has put her signature on it which on identification was marked as Exbt. P7/PW2. She has filed the instant complaint to get back her land.

In her cross examination she deposed that it is a fact that she went to the office of Sub- Register for registration of the power of attorney. After the alleged incident of transfer of land she had subsequently made a deed of revocation of power of attorney. She had issued no notice to accused Dilip Goswami before revocation of power of attorney. She further admitted that at the time of execution of sale deed regarding the alleged land the power of attorney was still in forced.

10. **P.W. 3- Sri. Subal Namasudra,** deposed in examination-in-chief that he is the seizure witness of the instant case and one birth certificate of the daughter of Smt. Aroti Bala Biswas, 10 Rs.

Stamp paper on affidavit, demarcation document and application of Smt. Aroti Bala Biswas before the SDM and DM were seized in his presence preparing a seizure list on which he has put his signature. On identification the said signature was marked as Exbt. P1/PW3.

11. **P.W. 4- C/7006 Sri Pranabesh Paul,** deposed in examination-in-chief that on 23.03.2022 some documents were seized at Ambassa P.S complex by the I/O of the case. As far as he can recollect the documents containted registered stamp papers amounting Rs. 1000/- and 5000/-. A document related to land endorse by the SDM was also seized. The documents were seized from the possession of Dilip Goswami by SI Prasenjit Debnath. The seizure list of the documents were prepared in his presence and he is seizure witness of the instant case and his signature on identification was marked as Exbt. P1/PW4.

In his cross examination he deposed that he could not say whether any thing was written on the stamp paper which were seized in my presence. He further stated that the documents were seized around 07:00 PM when he was in Ambassa PS complex performing his duty.

12. **P.W. 5- SI Prasenjit Debnath,** deposed in examination-in-chief that on 16.10.2021 he was posted at Ambassa P.S and he was endorsed with investigation of this case by Inspector Himadri Sarkar, the then O/C Ambassa P.S. After being endorsed with the investigation of this case he visited the Place of occurrence as shown by the complainant and prepared hand sketch map of the PO along with a separate index. On identification the said hand sketch map was marked as Exbt.

P1/PW5 as a whole and signature therein was marked as Exbt. P2/PW5**.** On identification the index of the said hand sketch map prepared by him in which he has put his signature was marked as Exbt.P3/PW5 as a whole and signature therein was marked as Exbt. P4/ PW5. He has also recorded the statement of the witnesses under Section 161 of Cr.P.C. He has also issued notice upon the accused person as per compliance of section 41A of Cr.PC. Thereafter he seized all relevant documents like Original one Indian Non Judicial Stamp Power of attorney, one original prayer for sale permission of allotted land of Mouja Ambassa, birth certificate of Miss Purnima Biswas, One original petition of Smt. Arati Bala Biswas, Memo of demarcation preparing a seizure list. On identification the said seizure list dated 26.12.2021 was marked as Exbt**.** P5/PW5 as a whole and his signature therein was marked as Exbt. P6/PW5. He has also seized from the accused person Dilip Goswami some documents like one xerox copy of land sale permission issued by the DM and Collector, 06 original Indian non judicial register stamp, one xerox copy of prayer by the complainant to DM and again two original stamp paper preparing a seizure list. On identification the said seizure list dated 23.03.2022 was marked as Exbt. P7/PW5 as a whole and his signature therein was marked as Exbt. P8/PW5. After that he submitted the charge sheet against the accused person Dilip Goswami and his wife who had expired now at present, under section 420/506 of IPC.

In his cross examination he deposed that the signature in the prayer for sale permission before the DM & Collector was given by Arati Bala Biswas. He further stated that the complainant being not so highly educated person could not properly read the contents of the documents. He stated that the complainant also lodged a complaint before the DM & Collector. He also further stated that after no action was taken by the DM & Collector the complainant filed a FIR and he did not inquire before the DM if any case was pending on regard of that complaint. He also stated that he did not make the sub-registrar a witness before move a sale deed/Power of attorney is read over and explained to the referents and the power of attorney being a irrevocable deed need a notice for cancellation which he did not submit before this court as he did not receive any such notice from the complainant.

DISCUSSION ON EVIDENCE, DECISION AND REASONS THEREOF

13. All the evidences placed before this court are considered meticulously and after hearing the arguments I have arrived to the following decisions:-

Point for determination No. 1.

14. The prosecution alleged that Dilip Goswami along with his wife Soma Chakraborty promised the complainant to provide one Govt. job in exchange of her land. The complainant asserted that she agreed to give the power of attorney to the accused person in order to look after the said property but not the ownership and she shall transfer the ownership of the property after getting the Govt. job. However, the complaint petition reveals that by that time already on 20.02.2006 the accused person submitted a prayer before DM, seeking permission to sale the property by writing that he wanted to sale the property for her daughters marriage and fraudulently taken her signature.

The victim cum complainant stated that in her examination in chief that she signed the power of attorney knowing that it is a document for providing her government Job. Through the columns of the charge sheet it has been divulged that the complainant agreed to the give power of attorney in favour of the accused for the purpose of looking after the said land property in lieu of government job. The prosecution claims that the accused person promise to provide the complainant a government job in exchange of the mutation of property. According to the prosecution side the words like sale, transfer of the property was inserted into the paper of power of attorney without her knowledge and contents of the documents were not read over to her. The seized documents when perused reveals that the prayer for sale permission was submitted before the DM and Collector of Ambassa at 20.02.2006 and thereafter on 10.08.2006 one general irrevocable power of attorney was executed by the complainant in favour of the accused. Following that a sale deed was registered on 20.08.2009 by which the said land is in dispute was sold to the wife of the accused person.

15. While the perusing the record this court has also found that one contract for sale containing the signature of both the complainant and the accused along with other two witnesses which mentions that Arati Bala Das received an amount of Rs. 50,000/- before the completion of sale procedure of that land. However this document was not taken into evidence by the prosecution. But even if it was considered by this court then it cannot be said that Arati Bala Das did not have the knowledge of the sale before the execution of the sale deed.

On the other hand the victim deposed during her evidence that on behalf of Dilip Goswami, at his instance for the purpose of looking after and taking care of her land, she endorsed a document. She further stated that the contents of the documents were not read over to her and she had signed it as she trusted him. Eventually within a year it came to her knowledge that she had endorse the power of attorney in his name and she had no right left with the property as per the deposition of the victim.

However, in the cross-examination the victim admitted that she went to the office of sub-register for registration of the power of attorney.

16. Cheating is defined in section 415, I.P.C.,which is as follows "*Whoever, by deceiving- any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces, the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".*

This section is an aggravated form of cheating which involves delivery of property or destruction of valuable security. The ingredients required to constitute the offence under this section are :--

(i) That the representation made by the accused was false;

(ii)That the accused knew that the representation was false at the very time when he made it;

(b)That the accused made the false representation with the dishonest intention of deceiving the person to whom it was made; and

(iii)That the accused thereby induced that person to deliver any property or to do or to omit to do something which he would otherwise not have done or omitted.

Simple cheating is punishable under section 417 of IPC. But where there is delivery or destruction of any property or alteration of destruction of any valuable security resulting from the act of the person deceiving, this section comes into operation.

17. For an offence under the section it must be proved that the accused had a dishonest intention from the out set. The primarily requirement to make out an offence of cheating under section 415 punishable under section 420 of IPC, 1860 is dishonest or fraudulent intention at the time when inducement is made. The intention to deceive should be in existence at the time when inducement is made. Mere failure to keep of a promise subsequently presumed as leading to cheating.

In the case of **Mariam Fasihuddin & Anr., Vrs. State by Adugodi Police Station & Anr., Criminal Appeal No. 335/2024** it was stated by the Hon'ble Supreme Court of India in Para 12 of the judgment *"It is well known that every deceitful act is not unlawful, just as not every unlawful act is deceitful. Some acts may be termed both as unlawful as well as deceitful, and such acts alone will fall within the purview of Section 420 IPC. It must also be understood that a statement of fact is deemed 'deceitful' when it is false and is knowingly or recklessly made with the intent that it shall be acted upon by another person, resulting in damage or loss. 'Cheating' therefore, generally involves a preceding deceitful act that dishonestly induces a person to deliver any property or any part of a valuable security, prompting the induced person to* *undertake the said act, which they would not have done but for the inducement."* In the said judgment the Hon'ble Supreme Court had also mentioned the three components of the offence under section 420 of IPC. *"i.e., (i) the deception of any person, (ii) fraudulently or dishonestly inducing that person to deliver any property to any person, and (iii) mens rea or dishonest intention of the accused at the time of making the inducement."*

18. Now at this stage even if we acknowledge that the complainant had executed the power of attorney knowing that it was a paper for providing her government job or she had executed the power of attorney only for the purpose of looking after her land, the fact that it was registered in presence of the complainant before the Sub-register office cannot be ignored. Even if the complainant was not aware of the terms of the power of attorney and she had signed it in some other misrepresentation or with some other belief the primary duty of care here lies with the complainant.

19. Although under Section 415 of Indian Penal Code,1860 any dishonest concealment of fact is cheating. But the question which arose before this court is when complainant had signed the paper voluntarily and it was registered in her presence before the Sub- register, and there was no bar upon the complainant who was not illiterate to read the terms of the power of attorney can be termed as dishonest concealment or even concealment. The executant also has a duty to read the power of attorney.

Section 85 of Indian Evidence Act,1872 states about presumption as to powers-of-attorney. *"The Court shall presume that every document purporting to be a power-of-attorney, and to have been executed before, and authenticated by, a Notary Public, or any Court,* *Judge, Magistrate, Indian Consul or Vice-Consul, or representative of the Central Government, was so executed and authenticated."*

Furthermore there has been no evidence laid by the prosecution to show that the power of attorney was not read over to the complainant specifically when she went to the office of the Sub- register for registration of the power of attorney.

20. Section 141 of Indian Evidence Act had given the court the presumption that every official act has been regularly performed. When acts are official nature and went through the process of scrutiny by official person it is presumed that all things have been rightly and duly performed until it is proved to the contrary. The famous legal maxim '*omnia praesumuntur rite et dowee probetur in contraium solenniter esse acta*' i.e. all acts are presumed to have been done rightly and regularly applies.

Hence, in order to prove that the terms of the power of attorney was not read over to her before the Sub-register or at any other place the prosecution had to bring something in contrary to establish that she was endorsing under a fraudulent representation or she was deceived. Where there was a duty cast on the complainant to read the documents who was not illiterate before signing the question of deceivement cannot lie because deceivement means to persuade some one that something false is truth or to keep the truth hidden from someone for his own advantage. In the instant case it cannot be said that the truth was hidden as everything was clearly reflected on the paper signed by the complainant herself. Also the IO did not made the sub-register before whom a sale deed is read over a witness. Neither the other two names who are the probable witness of the power of attorney executed were cited as witness by the prosecution reason best known to the IO. In gist it can be said that there is no evidence to support this claim of the complainant. Also mere allegation that the intention of the complainant was different than written on the paper is not enough to establish the charges of Section 420,IPC.

21. The Honble High Court of Karnataka in the case of **Mrs.M.Dhanlakshmi @ Lakshmi Rajan v.s Murali Rajan**(CRIMINAL PETITION No.2386/2019) in a similar circumstances where the complainant disclosed the allegation against the accused that she fraudulently got executed a power of attorney on the pretext of looking after the complainant and by misusing it, the accused executed an agreement of sale in his favour held that *"7. The perusal of the power of attorney indicates that the complainant had executed the power of attorney since she was not in a position to manage the property due to her old age. There is no 6 recital in the power of attorney that the power of attorney was executed in favour of accused No.1 only on the ground that accused No.1 was required to look after her during her old age. In order to constitute the offence punishable under Section 420 of IPC, there must be specific allegation that from inception, there must be a dishonest intention on the part of the accused to cheat the complainant.*

8. In the present case, there is no specific allegation that from the date of execution of power of attorney in favour of accused No.1, there was dishonest intention on the part of petitioner No.1/accused. In the absence of essential ingredients so as to constitute the offence punishable under Section 420 of IPC, the charge sheet filed against the petitioner No.1/accused is without any substance."

Likewise there is nothing on power of attorney which declares that in lieu of land the accused person had to provide a government job to the complainant.

22. The allegation of the complainant is that the accused promised to provide government job to the victim. But after the power of attorney was executed in favour of Dilip Goswami he informed that the complainant has no right left with the property.

In this regard the Hon'ble Supreme Court in the case of **S.W. Palanitkar And Ors vs State Of Bihar And Anr** (Appeal (crl.) 1072 of 2001) stated that *"Mere breach of contract cannot give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction, that is the time when the offence is said to have been committed. Therefore it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had fraudulent or dishonest intention at the time of making the promise. From his mere failure to keep up promise subsequently such a culpable intention right at the beginning, that is, when he made the promise cannot be presumed."*

Therefore it appears that if the accused person failed to provide a government job alone cannot bring home an offence under Section 420 even if the allegation made on the complainant is accepted on face of it.

23. To make out a case against a person for the offence under Section 420 of IPC, there must be a dishonest inducement to deceive a person to deliver any property to any other person. The complainant of the case has also brought allegations that the accused forged her signature at the 'Prayer for sale permission'. On perusal of the case record and all the documents collected by the prosecution it can be seen that the complainant had signed each document with different names. The complaint petition, seizure list were signed as 'AratibalaBiswas(Das) while the rest documents like contract for sale, power of attorney, prayer for sell permission, were signed as 'Arati Biswas (Das)'. The prayer for sale permission reflects that Arati Bala Biswas was in need of the said land for marriage of her daughter resulting which she made that prayer. But while perusing the birth certificate it is affirmed that her daughter was born much later after the prayer was made.

24. Although Arati Bala Das alleged that her signature was forged but it was not compared before the forensic expert with the other signature which was admitted as the signature at the document of 'Power of Attorney' or any other document of the complainant by both the parties. In absence of that by naked eye it cannot be confirmed that the signature was forged. Also there was no charge brought against the accused person under Section 468 of Indian Penal Code. The presumption with always be that the complainant herself had signed the papers with true knowledge of the contents unless the contrary is proved by the prosecution.

25. It is pertinent to mention that the complainant had also approached before the DM for cancellation of sale deed. The Honble Karnataka High Court in the case of **Mrs.M.Dhanlakshmi @ Lakshmi Rajan v.s Murali Rajan**

"*The complainant has executed registered cancellation deed dated 27.07.2013 divesting herself of all the rights over the subject property in favour of the original owner as on the date of filing of the suit. The complainant had no subsisting right interest over the subject property. In the absence of any loss or injury caused to the complainant, the filing of the complaint for the offences punishable under Section 420 of IPC is impermissible.*"

26. The evidence of the prosecution also does not clear if the complainant received any sale proceed from this land which is definitely the right of the complainant.

But contrary to the claim of the complainant the IO had seized one sale deed executed in favour of the accused and his deceased wife which when perused mentions that the said land in dispute was sold to Soma Chakraborty who was the wife of Dilip Goswami by the complainant herself in exchange of amount of Rs.3,04,200/- (Rupees three lakh four thousand two hundred). However, as there was power of attorney endorsed at the name of the accused person the sale deed while registration was not signed by the complainant.

Surprisingly there was no discussion by the prosecution or the complainant about this particular sale deed at the complaint petition or the charge sheet or specially at the evidence stage which initiated the sale either although sale deed was seized by the IO. There has been no discussion on whether the complainant received any amount by that sale. Hence, it is difficult to determine the wrongful loss or injury suffered.

27. Therefore, in sequel it can be said the evidence provided by the prosecution have been not enough to substantiate the claims of the prosecution. The ingredients of cheating could not be proved and there has been several doubts in the mind of this court.

Hence, the point for determination No.I is decided in negative.

Point for determination No. 2.

28. Section 506 of Indian Penal Code reads as: *"Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;*

If threat be to cause death or grievous hurt, etc. and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or 1[imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both."

There is nothing on evidence which reflects that the accused person threatened the complainant with dire consequences. Not even the complainant in her examination in chief spoke about any kind of threat.

29. In order to proof an offence under section 506 of IPC the prosecution must established the question threat. The intention of the accused must be to cause alarm to the victim. Mere expression of words, without any intention to cause any alarm, death or grievous hurt, would not suffice.

In absence of basic ingredients of the section in the complaint, no case under section 506 of IPC can be sustained.

Hence, the point for determination No. II is decided in negative.

30. Courts must be cognizant of fact that burden of proof of crime itself does not shift on another person. This remains duty of prosecution, presumption of truth must be the exercise of a logical conclusion as to the most probable position, flowing from facts already proved- only when prosecution satisfies its initial burden to proof, be it preponderance of possibilities in a civil matter or beyond reasonable doubt in a criminal matter, does burden of proof shift to defence, if prosecution fails to prove foundational facts so as to establish its case, burden of disproving does not shift on defence.

31. Every criminal trial begins with the presumption of innocence in favour of the accused; and provisions are so framed that a criminal trial should begin with and be throughout governed by this essential presumption, but a fair trial has naturally two objects in view; it must be fair to the accused and it must also be fair to the prosecution. The test of fairness in a criminal trial must be judged from this dual point of view.

32. A criminal trial never be so conducted by the prosecution as would lead to a conviction of an innocent person. The acquittal of the innocent and the conviction of the guilty are the objects of a criminal trial and so there can be no possible doubt. A fundamental principle behind the right to a fair trial is that every person should be presumed innocent unless and until proven guilty. It is the responsibility of the state to prove that someone is guilty not for the suspected person to prove their innocence. If there is 'reasonable doubt', an accused person must be given the benefit of the doubt and cleared because the state's 'burden of proof' has not been met.

In the case of **Suresh Thipmppa Shetty vs State of Maharashtra Criminal Appeal No.** 1541 of 2010 *"On a deeper and fundamental level, when this Court is confronted with a situation where it has to ponder whether to lean with the Prosecution or the Defence, in the face of reasonable doubt as to the version put forth by the Prosecution, this Court will, as a matter of course and of choice, in line with judicial* *discretion, lean in favour of the Defence. We have borne in mind the cardinal principle that life and liberty are not matters to be trifled with, and a conviction can only be sustained in the absence of reasonable doubt. The presumption of innocence in favour of the accused and insistence on the Prosecution to prove its case beyond reasonable doubt are not empty formalities. Rather, their origin is traceable to Articles 21 and 14 of the Constitution of India. Of course, for certain offences, the law seeks to place a reverse onus on the accused to prove his/her innocence, but that does not impact adversely the innocent-till proven-guilty rule for other criminal offences."*

In a criminal case it is in the interest of justice that if accused is guilty he should be convicted but it not in the interest of justice that he should be convicted unless his guilt is fully and clearly made out.

33. The above confabulation, makes it evident that the prosecution witnesses could establish the guilt of the accused and the prosecution has failed to prove this case beyond reasonable doubt against the accused person and accordingly the accused deserve acquittal on benefit of doubt. Thus it is transpired that prosecution has failed to prove his case and the points for determination no I, II are decided in negative.

O R D E R

34. In the result, the accused person namely 1. Sri Dilip Goswami, S/O-Sri Harinarayan Goswami, of- Jawharnagar BSF gate no.4, PS- Ambassa, Dhalai Tripura is acquitted from the accusation of the offence punishable U/S- 420/506 of the Indian Penal Code,1860 levelled against him in connection with this case and the accused person is set at liberty at once and the points for determination are decided in negative.

35. A bail bond has been submitted by the surety of the accused person as per mandate under Section 437A Cr.P.C.

36. The seized documents in regard to this case may be released to its original possessors after the expiry of appeal period.

37. Aggrieved Party may prefer appeal against this judgment before next appellate forum.

38. The case is thus disposed of on contest on acquittal.

39. Enter the result in the trial register and CIS.

40. The judgment is delivered under the hand and seal of this court on this 15th March, 2024.

ANNOUNCED.

Typed to my dictation
and corrected by me:

RANJABATI ROY Digitally signed by RANJABATI ROY Date: 2024.03.15 18:07:54 +05'30'

(Miss. Ranjabati Roy)
Judicial Magistrate First Class,
Ambassa, Dhalai Judicial District.

RANJABATI ROY Digitally signed by RANJABATI ROY Date: 2024.03.15 18:07:42 +05'30'

(Miss. Ranjabati Roy)
Judicial Magistrate First Class,
Ambassa, Dhalai Judicial District.

FORM C

LIST OF PROSECUTION WITNESSES

A. Prosecution:

RANK	***NAME***	***NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCE WITNESS, OTHER WITNESS)***
PW-1	***Smt. Mangaldon Halam.***	***Witness.***
PW-2	***Smt. Aroti Bala Biswas.***	***complainant.***
PW-3	***Sri Subal Namasudra.***	***Witness.***
PW-4	***Sri Pranabesh Paul.***	***Witness.***
PW-5	***SI- Prasenjit Debnath.***	***I/O.***

B. Defence Witnesses, if any:

RANK	***NAME***	***NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, RELATIVE WITNESS,***

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		INTERESTED WITNESS, INDEPENDENT WITNESS OTHER WITNESS)
Nil	***Nil***	***Nil***

C. Court Witnesses, if any:

RANK	***NAME***	***NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, RELATIVE WITNESS,INTERESTED WITNESS,INDEPENDENT WITNESS OTHER WITNESS)***
Nil	***Nil***	***Nil***

LIST OF PROSECUTION /DEFENCE/ COURT EXHIBITS

A. <u>Prosecution:</u>

01.	***Exhibit-P-1/PW-2***	***Signature on the complaint petition of PW2.***
02.	***Exhibit-P-2/PW-2, Exhibit-P-3/PW-2 Exhibit-P-4/PW-2***	***Power of Attorney Signature on first, second, third, forth pages***

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	Exhibit-P-5/PW-2 & Exhibit-P-6/PW-2	***respectively therein of PW2 .***
03.	***Exhibit-P-7/PW-2***	***Signature on the seizure list of PW2.***
04.	***Exhibit-P-1/PW-3***	***Signature on the seizure list of PW3.***
05.	***Exhibit-P-1/PW-4***	***Signature on the seizure list of PW4.***
06	***Exhibit-P-1/PW-5 & Exhibit-P-2/PW-5***	***Prepared hand sketch map & Signature therein of PW5 as a whole.***
07	***Exhibit-P-3/PW-5 & Exhibit-P-4/PW-5***	***Prepared Index of the hand sketch map & Signature therein of PW5 as a whole.***
08	***Exhibit-P-5/PW-5 & Exhibit-P-6/PW-5***	***Prepared Seizure list & Signature therein of PW5 as a whole.***
09	***Exhibit-P-7/PW-5 & Exhibit-P-8/PW-5***	***Prepared Seizure list & Signature therein of PW5 as a whole.***

B. Defence:-

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SL No.	***Exhibit Number***	***Description***
Nil	***Nil***	***Nil***

C. Court Exhibits:

SL No.	***Exhibit Number***	***Description***
Nil	***Nil***	***Nil***

D. Material Objects:

SL No.	***Material Object Number***	***Description***
Nil	***Nil***	***Nil***

Typed to my dictation
and corrected by me:

RANJABATI ROY Digitally signed by RANJABATI ROY Date: 2024.03.15 18:09:27 +05'30'

(Miss. Ranjabati Roy)
Judicial Magistrate First Class,
Ambassa,Dhalai Judicial District.

RANJABATI ROY Digitally signed by RANJABATI ROY Date: 2024.03.15 18:09:15 +05'30'

(Miss. Ranjabati Roy)
Judicial Magistrate First Class,
Ambassa,Dhalai Judicial District.

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