

**IN THE COURT OF THE JUDICIAL MAGISTRATE 2ND COURT AT
SEALDAH**

PRESENT: SHIBASISH DEY (WB 01375)
JUDICIAL MAGISTRATE
SECOND COURT, SEALDAH
G.R. CASE NO. 3055 of 2022

STATE

-Vs-

1. Biswajit Saha
2. Nakul Saha
3. Smt. Joli SahaACCUSED PERSONS

DATED: 17.05.2025

U/S-406/114 OF I.P.C

J U D G M E N T

The prosecution story in brief as under:-

The prosecution case in brief is that complainant filed a written complaint alleging that the accused persons have criminally breach of trust by misappropriating the stridhan articles handed over to her for safe keeping after her marriage with Biswajit Saha.

Thus on the basis of the allegation the present case was initiated against the accused persons.

That the investigating agency after completion of the investigation submitted charge sheet **U/S- 406/114 OF I.P.C** against the accused persons.

Charge:- That after perusal of materials this court found materials u/s **U/S- 406/114** and the substance of accusation against the accused persons **U/S- 406/114 OF I.P.C** was read over and explained, and they pleaded not guilty and claimed to be tried.

PROSECUTION WITNESSES:- That the prosecuting agency in order to prove the charge has bring 03 witnesses. Then prosecution evidence was closed on prayer of public prosecutor.

EXAMINATION U/Sec 313 Cr.P.C

At the end of the evidence of prosecution the accused persons were examined u/s-313 Cr.P.C where they pleaded their innocence and denied the prosecution case and also declined to produce any evidence in their favour.

POINT FOR CONSIDERATION

1. Whether the prosecution has been able to prove the charge beyond reasonable shadow of doubt by adducing valid and cogent evidence?

DECISION WITH REASONS

FINDINGS OF COURT:- To bring home the charge against the accused persons the prosecution has examined 01 witnesses. The evidence of the PW 1 to PW3 are not of sterling quality to be relied upon.

More over no corroborating evidence given by the prosecution to strengthen the said witness. Prosecution has failed to produce witnesses in this case. Prosecution has failed to corroborate this case adequately. After perusal of the evidence it is seen that no offence is being made out against the accused persons under any of the sections of law. Under the above circumstances, I find no incriminating material against the accused persons. Therefore, I find that there is nothing in the evidence of the prosecution witness to entangle the accused persons against the alleged charge. Thus considering the oral and documentary evidence on record, surrounding circumstances, probabilities and improbabilities and the prevailing laws of the land, I am of the convinced opinion that the prosecution has totally failed to prove the charge against the accused persons beyond reasonable shadow of doubt by adducing valid and cogent evidence upon which the accused persons can be held guilty.

Finally this court shall conclude by mentioning the crucial observation of Honble **Justice Mr H R Khanna** in **Kali Ram Vs State of H.P 1973 (2) SCC 808** as :

“ It is no doubt true that wrongful acquittals are undesirable and shake the confidence of the people in the judicial system, much worse however is the wrongful conviction of an innocent person. The consequences of the conviction of an innocent person are far more serious and its reverberations can not but be felt in a civilized society.”

Hence, it is,

ORDERED

that the accused persons viz. Biswajit Saha, Nakul Saha and Smt. Joli Saha are found not guilty of the charge **U/S- 406/114 OF I.P.C** and thus they are acquitted from this case u/s **248 (1)** Cr.P.C and set at liberty. Sureties are discharged from their respective bail-bonds. BC II to send copies of the Judgement to office of DLSA Alipore and DM of this district. Victim shall have right to appeal and right to legal aid.

Typed, corrected & printed by me

Shibasish Dey
Judicial Magistrate
2nd Court Sealdah

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