

ORDER SHEET FOR MAGISTRATE'S RECORDS

District: Tinsukia

In The Court Of: Smti. Queensmita Saikia, JMFC,

PRC-305/2025

Sl No.	Date	Order	Signature
	23.07.26	Accused person A1-Biswajit Tamuly is produced before the court from judicial custody. Seen the accused person. The accused person appears to be of sound mind and health. Heard the argument of Ld. Counsel for the accused person and Ld. APP at length on 21/07/2026 The standard of proof in criminal case is to prove the guilt of the accused person beyond all reasonable doubt. But in the instant case the prosecution failed to prove its case, beyond reasonable doubt due to lack of evidence. Judgment is ready and the same is appended with the case record. The operative part of the	

Contd.

Biswajit Tamuly
Accused released under, copy of order, custody
At Sanjay's father
Dec 28/7/26

28/7/26
Judicial Magistrate
1st Class Tinsukia

23.07.26 Judgment is pronounced in the open Court.

The accused person **A- Biswajit Tamuly @ Naga** is acquitted of the offense charged U/S 305(a) of BNS, in the instant case and set at liberty forthwith.

The bail bonds shall remain in force for six month from today in compliance with section 481 of BNSS.

The case is accordingly disposed off on contest.

Issue Release order.

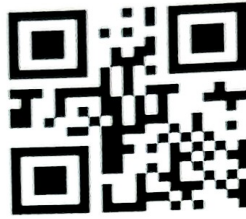
Inform Superintendent of District Jail Tinsukia.

BA is directed to do the needful.


23/7/24
Judicial Magistrate
1st Class Tinsukia

IN THE COURT OF QUEENSMITA SAIKIA, JMFC,
TINSUKIA

Present: Smti. Queensmita Saikia A. J. S.,
Judicial Magistrate First Class,
Tinsukia, Assam



Date of Judgment: **23/07/2026**

(PRC Case No—305/2025)

Tinsukia P. S. Case No. 01/2025

Under Sections 305(a) of Bharatiya Nyaya Sanhita, 2023

COMPLAINANT:	STATE OF ASSAM
REPRESENTED BY	Assistant. P. P.
ACCUSED PERSON:	A1- Biswajit Tamuly @ Naga S/O Lt. Luknath Tamuly R/O- Nabibulla Road near Nepali Mandir P.S- Tinsukia District- Tinsukia Assam.
REPRESENTED BY	Ld. Counsel Cherry Chetia.

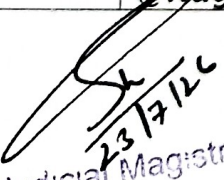
23/7/26
Judicial Magistrate
1st Class Tinsukia



Date of Offence	04.01.2025
Date of FIR	05.01.2025
Date of Charge Sheet	30.04.2025
Date of framing of charge	26.09.2025
Date of Commencement of Evidence	15.12.2025 10.06.2026
Date on which Judgment is reserved	NA
Date of Judgment	23.07.2026
Date of the Sentencing Order, if any	NIL

Accused Details:

Rank of the Accused	Name of Accused	Date of Arrest	Date Release on Bail	Offenses charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec. 468 BNSS
A1	Biswajit Tamuly @Naga	08.09.25	19.09.25	Sec. 305(a) of BNS	Acquitted	NIL	11 days


 23/7/26
 Judicial Magistrate
 1st Class Tinsukia

JUDGEMENT

- 1) The factual matrix of the case as stated in the FIR by the Complainant is that on 04.01.2025 during Night Hours some unknown miscreant entered into his shop, COSMO ENTERPRISES, located at TDC Shopping complex, and had stolen copper Steal bundles. Hence, this case.
- 2) On receipt of the FIR, OC of Tinsukia Police Station registered a case Vide Tinsukia P.S case No. 01/2025 under section 305(a) of Bhartiya Nyaya Sanhita (Hereinafter referred as BNS) and set the criminal law in motion. On completion of investigation, the IO submitted Charge Sheet bearing No.117/2025 under Section 305(a) of BNS against the accused person and eventually the case was made over to this court for trial.
- 3) Cognizance was taken as per the procedure of Section 210 of the Bharatiya Nagarik Suraksha Sanhita 2023, on receipt of charge sheet. The accused was produced before this court on execution of P&A issued against the accused person.
- 4) The accused person stood for the trial. Copies of relevant documents were furnished to the accused person as required by section 230 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (herein after referred to as BNSS). Upon perusal of charge-sheet and



SK
23/12/24
Judicial Magistrate
1st Class Tinsukia

material on record, prima facie grounds were found to presume that the accused persons committed offence U/S 305(a) of BNS and accordingly formal charge U/S 305(a) of BNS was framed which were read over and explained to the above named accused person. The accused persons disavowed the accusation and pleaded total denial and claimed to be tried.

5) Prosecution in order to prove its case and to nail the guilt of the accused person examined 4 PWs.

6) After recording the prosecution evidence, the statement of the accused person was recorded U/S 351 of BNSS. The defence plea is that of total denial and accused person claimed innocence and stated that he was falsely implicated in the case.

7) I have heard the entire arguments from both sides and perused the entire evidence on record.

8) POINTS FOR DETERMINATION:

(i) Whether the accused person on 04.01.2025 during night hours committed theft of copper steel bundles from the shop of the informant COSMO ENTERPRISES located at TDC shopping complex under Tinsukia Police Station and thereby committed an offence under Section 305(a) of BNS ?


23/1/26
Judicial Magistrate
1st Class Tinsukia

DISCUSSION, DECISION AND REASON THEREOF:

9) **PW1, Sri Partha Pratim Palit**, is the informant in the present case. He deposed that the incident occurred in the month of April, 2025. According to him, nearby shopkeepers informed him that the shutter of his shop was found half-open. Upon receiving the information, he immediately went to the place of occurrence and found that approximately 60 kg of copper strips, valued at about Rs. 60,000/-, had been stolen from his shop. Thereafter, he informed the police, who visited the place of occurrence and conducted the investigation. He lodged the First Information Report (FIR) on the day following the incident at Tinsukia Police Station. PW1 further stated that he had no knowledge as to whether the police had recovered the stolen articles or arrested any person in connection with the incident.

Ext. P-1/PW1 is the FIR and Ext. P-1(1)/PW1 is his signature thereon.

During cross-examination, PW1 stated that he had drafted the FIR himself. He admitted that he had not accurately mentioned the quantity of copper wire alleged to have been stolen in the FIR. He further deposed that he could not say how the theft had taken place. He also admitted that he had not produced any receipt, invoice, or other documentary evidence to establish his ownership of the alleged stolen copper wire.


23/7/24
Judicial Magistrate
1st Class Tinsukia



10) **PW2, Priyom Palit**, deposed that the informant is his father. He stated that on the day of the incident, he accompanied his father to the shop, where they found that the shutter had been forcibly opened and was lying half-open. Upon entering the shop, they discovered that approximately 60 kg of copper strips, valued at around Rs. 60,000/-, had been stolen. Thereafter, they informed the police about the incident, and the police subsequently visited the place of occurrence and conducted the investigation. On the following day, they lodged the First Information Report (FIR). PW2 further deposed that he had no knowledge as to whether the police had recovered the stolen copper wires or arrested any person in connection with the alleged incident. He also stated that the accused person was not known to him. Ext. P-1(2)/PW2 is his signature on the FIR as a witness.

During his cross-examination, PW2 deposed that the FIR was drafted by his father. He admitted that the exact quantity of the stolen copper wire had not been mentioned in the FIR. PW2 further stated that he could not say how the theft had occurred, as he had not witnessed the incident himself.

11) **PW3 , Sri Deepa Thapa**, deposed that the informant is known to him as they reside in the same locality. He stated that on the day of the incident,


23/7/24
Judicial Magistrate
1st Class Tinsukia



which was a Sunday about four to five months prior to his deposition, he received a phone call from the informant, who informed him that a theft had taken place at his shop and requested him to come to the place of occurrence. Upon reaching the place of occurrence, PW3 found that the shutter of the shop was lying open, as if it had been forcibly opened. He also noticed that some copper wires were missing from the shop. Thereafter, they informed the police about the incident, and the police subsequently visited the place of occurrence and conducted the investigation. On the following day, the informant lodged the First Information Report (FIR). PW3 further deposed that he had no knowledge as to whether the police had recovered the stolen copper wires or arrested any person in connection with the alleged incident. He also stated that the accused person was not known to him. Ext. P-1(3)/PW3 is his signature on the FIR as a witness.

During his cross-examination, PW3 deposed that the FIR had been drafted by the informant. He further stated that he was not aware of the contents of the FIR.

12) PW4, Smti Niharika Sonowal, deposed that on 05.01.2025, she was posted at Tinsukia Sadar Police Station as an Attached Officer. On the same day, Partha Pratim Palit lodged an Ejahar alleging theft of copper wires from his shop situated at Chirwapatty.



Judicial Magistrate
1st Class Tinsukia

Tinsukia. Upon receipt of the Ejahar, the Officer-in-Charge, Sri Paragjyoti Buragohain, registered Tinsukia P.S. Case No. 01/2025 dated 05.01.2025 under Section 305(a) of the Bharatiya Nyaya Sanhita (BNS) and endorsed the investigation of the case to her. PW4 deposed that she could identify the signature of the Officer-in-Charge on the Ejahar. PW4 further deposed that, after recording the statement of the complainant, she visited the place of occurrence and prepared a rough sketch map. Ext. P-2/PW4 is the sketch map and Ext. P-2(1)/PW4 bears her signature thereon. PW4 further stated that she recorded the statements of the other witnesses, namely Priyom Palit and Deepa Thapa. During the course of investigation, she received information from reliable sources that the accused, Biswajit Tamuli @ Naga, was involved in the alleged incident. Accordingly, she apprehended the accused and interrogated him. During interrogation, the accused allegedly disclosed before the police that another person, namely "Om", was also involved in the commission of the offence. He further stated that Om had sold the stolen copper wires to another person and had paid him a sum of Rs. 7,000/- from the sale proceeds. PW4 deposed that, after interrogation, the accused was released upon service of a notice under Section 35(a) of the BNSS. She further stated that despite her efforts, she could not trace the other alleged accused person, namely




23/1/26
Judicial Magistrate
1st Class Tinsukia

Om. Upon completion of the investigation, she submitted the charge-sheet against the accused, Biswajit Tamuli @ Naga, under Section 305(a) of the BNS. Ext. P-3 is the charge-sheet and Ext. P-3(1) bears her signature.

During her cross-examination, PW4 deposed that the FIR does not mention the length, size, or description of the alleged stolen copper wires. She further stated that the informant had not produced any purchase receipt or other documentary evidence to establish the ownership of the stolen copper wires. PW4 admitted that the stolen copper wires were neither recovered nor seized from the possession of the accused. She further deposed that, during the course of investigation, she did not seize any CCTV footage to ascertain the identity of the person involved in the alleged theft. PW4 also stated that there was no eyewitness who had seen the accused committing the alleged theft. However, she maintained that, during the investigation, she had received information from reliable sources indicating the involvement of the accused in the alleged incident.. PW4 denied the suggestion that she had submitted the charge-sheet without conducting a proper investigation and solely on the basis of information received from reliable sources.

13) Now the stage has been set to appreciate the evidence on record in the light of following essential

23/7/24
Judicial Magistrate
1st Class Tinsukia

ingredients of offences alleged to have been committed by the accused person. For the sake of convenience, I have taken all the points together. In the instant case Investigation Officer (hereinafter called as IO) has listed in total 04 witnesses including the informant. Out of which prosecution adduced the evidence of all the Prosecution witnesses.



14) Upon meticulously perusal of the evidence on record, it is evident that there is no direct evidence connecting the accused with the alleged offence. The prosecution has failed to produce any eyewitness who saw the accused committing the theft. No CCTV footage or other scientific or electronic evidence has been collected during the investigation. The alleged stolen property has not been recovered from the possession of the accused or at his instance. The Investigating Officer has stated that she implicated the accused on the basis of information received from "reliable sources". However, the identity of such sources has not been disclosed, nor has any independent evidence been adduced to corroborate such information. Mere suspicion or secret information, in the absence of legally admissible corroborative evidence, cannot form the basis of conviction. Further, the prosecution has failed to establish the ownership and identity of the alleged stolen property. The informant admittedly did not produce any documentary evidence such as purchase receipts, invoices or stock registers to

[Signature]
Judicial Magistrate
1st Class Tinsukia

substantiate his claim that the stolen copper wires belonged to him. It is a settled principle of criminal jurisprudence that the prosecution must prove its case beyond reasonable doubt. Suspicion, however strong, cannot take the place of legal proof. The evidence led by the prosecution gives rise to suspicion at best but falls far short of proving the guilt of the accused beyond reasonable doubt. PW4 stated that the accused admitted before them he along with another person whose name was "Om" was involved in the alleged incident, who sold the copper wires to some other person and gave an amount of Rs. 7000/- to him but such statement made by the accused before the police is also of no assistance to the prosecution. It is well settled that a confession made to a police officer is inadmissible in evidence except to the limited extent permitted under Section 23 of the Bharatiya Sakshya Adhiniyam (corresponding to Section 27 of the Evidence Act) if it leads to discovery. Since no recovery was effected pursuant to the alleged disclosure, it has no evidentiary value against the accused.

15) It is one of the cardinal principles of criminal jurisprudence that the prosecution must prove the guilt of the accused person beyond all reasonable doubt. It is clear from the above discussion, that the evidence on record is quite inadequate to prove the offence charged U/Sec 305(a) of BNS against the accused person as there is no evidence which directly involves the accused


23/12/24
Judicial Magistrate
1st Class Tinsukia

with the offence of committing theft at the shop of the Informant and there is ample scope of reasonable doubt as to the factum of the occurrence alleged. Situated thus, I am not inclined to hold the accused person, namely **A- Biswajit Tamuly** guilty of the offence charged Under Section 305(a) of BNS.



ORDER

In view of the decision made above, the accused person **A-Biswajit Tamuly @ Naga** is acquitted of the offences charged U/S 305(a) and set at liberty forthwith.

His bail bonds shall remain in force for six month from today in compliance with section **481 of BNSS**.

The case is disposed of on contest.

The judgment is delivered in the open Court in presence of accused persons and their learned counsel.

Given under my hand and the seal of this court on this 23rd day of July , 2026.


 23/7/26
 Judicial Magistrate
 1st Class Tinsukia
 (Smti. Queensmita Saikia)

Judicial Magistrate First Class,
 Tinsukia

LIST OF PROSECUTION/DEFENSE/ COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE
PW-1	Partha Pratim Palit	Informant
PW-2	Priyom Palit	Other witness
PW-3	Deep Thapa	Other witness
PW-4	Niharika Sonowal	IO

LIST OF DEFENCE WITNESSES

B. Defense Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE

EXHIBITS

A. Prosecution:

Sl. No.	Exhibit Number	Description
1.	Ext P-1/PW1	Ejhar
2.	Ext-P(2)/PW2	Signature of PW2 on the Ejhar
3.	Ext-P(3) /PW3	Signature of PW3 on the Ejhar
4.	Ext-P2/PW4	Is the sketch map
5.	Ext-P2(1)/PW4	Signature of PW4 on the Sketch map
6.	Ext-P3/PW4	Chargesheet
7	Ext-P3(1)/PW4	Signature of PW4 on the chargesheet.


 23/7/22
 Judicial Magistrate
 1st Class Tinsukia

B. Defense

Sr. No.	Exhibit Number	Description
	Nil	

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
	Nil	

D. Material Objects:

Sr. No.	Exhibit Number	Description
	Nil	



SK
25/3/26
Judicial Magistrate
1st Class Tinsukia

(Smti. Queensmita Saikia)
Judicial Magistrate First Class,
Tinsukia .