

THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
DHEMAJI

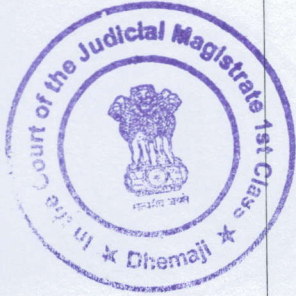
Present: Bebika Kuli, A.J.S.
Judicial Magistrate 1st Class,
Dhemaji, Assam

Date of Judgment : 06.03.2023

PRC – 733/2022

(FIR No. 160/2022 P.S. Case No. 160/2022
Police Station : Silapathar)

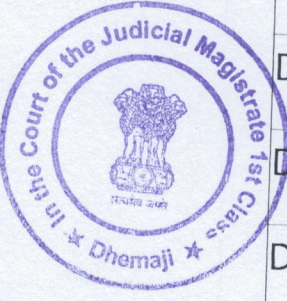
INFORMANT	SRI DIPAK DOWARAH
REPRESENTED BY	SMTI PAPORI BURAGOHAIN, A.P.P.
ACCUSED	SRI BIJU TAMULI S/o- Lt. Cheniram Tamuli R/o – Bishnupur Dubia Gaon PS- Dhemaji Dist – Dhemaji, Assam
REPRESENTED BY	SRI MINTU CHUTIA ADVOCATE



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APPENDIX – 13


Date of Offence	24.08.2022
Date of FIR	30.08.2022
Date of Charge-Sheet	28.09.2022
Date of Framing Charge	15.12.2022
Date of commencement of Evidence	06.03.2023
Date on which Judgment is reserved	Nil
Date of Judgment	06.03.2023
Date of the Sentencing Order, if any	Nil

ACCUSED DETAILS

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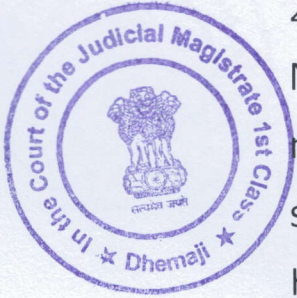
Rank of Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether Acquitted or Convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec. 428 Cr.P.C.
	Sri Biju Tamuli	31.08.2022	04.11.2022	379 of IPC	Acquitted	N/A	N/A

JUDGMENT

1. The prosecution's case in brief is that the informant namely, Sri Dipak Dowarah filed an ejahar at Silapathar Police Station on 30.08.2022, by stating that on 24.08.2022, his Pulser NS-125 motorcycle bearing Regd. No. AS-22-H-0974 went missing from standing near roadside. That on 30.08.2022, a boy from his village has seen accused taking the motorcycle to the Likabali side. He caught the accused red handed. The accused identified as one Biju Tamuli. Hence, the case.

2. The Officer-in-charge of Silapathar P.S. on receipt of the FIR, registered a case being Silapthar P.S. Case No. 160/2022, U/s. 379 of IPC. After completion of the investigation by SI Pankaj Oza submitted the Charge sheet of the case against the accused Biju Tamuli, u/s. 379 of IPC for trial.

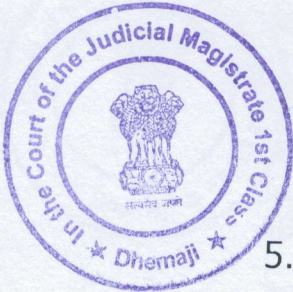
3. On the basis of charge sheet and other materials on record, cognizance of offence was taken U/s. 379 of IPC. Since the accused person was in jail, summons was not issued. He was granted bail on 04.11.2022. After hearing both sides and on perusal of the materials on record, formal charge U/s. 379 of IPC was framed against the accused. The ingredients of the offence punishable U/s. 379 of IPC was read over and explained to him, to which, he pleaded not guilty and claimed to be tried.



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4. The prosecution side examined the informant/complainant. The Learned APP. had prayed to close the evidence of the remaining witnesses as the informant is not willing to proceed further with the prosecution's case. The accused was examined U/s. 313 of the Cr.P.C. Accused denied adducing evidence.

5. I have heard both the sides. I have also gone through the evidence adduced on record. Considering all the aspects, the following points are taken as points for determination.

POINT FOR DETERMINATION.

I. The following point has been taken up for determination and discussion in the case:

ii. Whether the accused person on 24.08.2022 had committed theft of motor cycle of Sri Dipak Dowarah bearing number AS-22H-0974 and thereby committed the offence punishable u/S- 379 of the IPC?

DISCUSSION, DECISIONS AND REASONS THEREOF

6. PW1, Sri Dipak Dowarah, who is the informant of the case deposed in his evidence that the incident occurred some 3 to 4 months back at about 3 P.M. near Majgaon. The accused used his bike for few days with a promise to return the same but he did not return it for one month. Hence, he lodged the ejahar. He exhibited the

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ejahar as Ext.P-1/PW1, wherein his signature as Ext.P-1(1). His cross examination is declined.

7. Thus, it is evident that the prosecution has failed to prove the case against the accused beyond reasonable doubt U/s. 379 of IPC.

8. Hence, point for determination is decided in negative and goes in favor of the accused person.



ORDER

9. Hence, I hold that the prosecution has failed to prove that the accused person is guilty of committing offence punishable U/s. 379 of IPC. Hence, the accused Biju Tamuli is acquitted of the charges U/s. 379 of IPC and set him at liberty.

10. The bail bond of the accused shall remain in force for another six months from today as per Section 437-A Cr.P.C.

11. The case stands disposed of on contest.

Given under my hand and seal of this Court on this the 6th day of March, 2023.

B. Kuli 06.03.23
(Bebika Kuli)

Judicial Magistrate First Class,
Dhemaji

Judicial Magistrate 1st Class
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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)
PW1	Sri Dipak Dowarah	Eye Witness/Informant

B. Defence Witnesses, if any:

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

C. Court Witnesses, if any:

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



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LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution :

Sr. No.	Exhibit Number	Description
1.	Exhibit P-1/PW1	Ejहार.
2.	Exhibit P-1(1)	Signature

B. Defence :

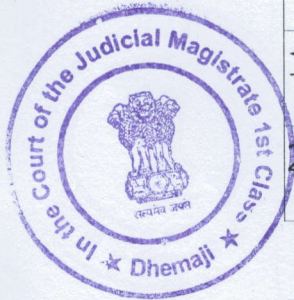
Sr. No.	Exhibit Number	Description
	Nil	Nil

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
	Nil	Nil

D. Material Objects :

Sr. No.	Exhibit Number	Description
	Nil	Nil



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(Bebika Kuli)

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