

**IN THE COURT OF ADDITIONAL DISTRICT & SESSIONS JUDGE
2ND COURT, COOCH BEHAR**

**Present: Smt. Mandakranta Saha,
Additional Sessions Judge,
2nd Court, Cooch Behar.**

Judgment delivered on : 7th day of April, 2026

Special Case No. 03 of 2017 (CIS No. 03 of 2017)

C.N.R No. WBCB01-002131-2017

**Ref : Sital Kuchi Police Station Case No. 125/2013 dated 30.05.2013 u/s
420/409/468/471 of IPC**

State of West Bengal

Vs

**1) Abu Bakkar Siddik S/o Lt. Md. Alauddin Mia of Vill : Khashbosh
Khalishamari, PS- Sitalkuchi, Dist. Cooch Behar (A1)**

.....Accused Person.

Charge U/s- 409 of IPC

J U D G M E N T

Form-B

Date of Offence	In the month of Baishakh last in 1419 BS
Date of F.I.R.	30.05.2013
Date of charge sheet	31.08.2015
Date of framing charge	02.03.2022
Date of commencement of evidence	09.08.2023
Date of judgement	07.04.2026

Factual matrix leading to initiation of the proceeding is that – it is alleged that the family of complainant belongs to BPL category. The accused person by misusing his power and position usurped the money under the scheme of old age pension which has been paid to the complainant. Thus she lodged the complaint against the accused person.

The matter was informed to Sital Kuchi Police Station, Cooch Behar by way of written complaint. Accordingly, a case vide Sital Kuchi Police Station, Case No. 125/2013 dated 30.05.2013 u/s 420/409 of IPC was initiated.

After completion of investigation charge sheet was submitted u/s 420/409/468/471 of IPC against accused Abu Bakkar Siddik (A1).

Charge was framed U/s 409 of IPC against the accused person namely Abu Bakkar Siddik (A1). He pleaded not guilty and claimed to be tried.

Prosecution has examined two (02) witnesses for proving the case. The accused person is examined u/s 313 Code of Criminal Procedure, 1973 and he claimed himself as innocent.

No evidence from the side of the defence is adduced.

Points for Determination

Whether the prosecution has been able to prove the offence u/s 409 of IPC against the accused person beyond reasonable doubts?

List of Prosecution Witnesses Examined

RANK	NAME	NATURE OF EVIDENCE
P.W.- 1	Hamida Bibi	Complainant
P.W.- 2	Alauddin Mia	Public Witness

List of Prosecution Exhibits

Serial No.	Exhibit Number	Description
1	Exhibit Number X for identification/ PW-1	Written complaint dtd. 16.10.2012

List of Material Exhibits

Serial No.	Mat Exhibit Number	Description
1	Nil	

Decision with Reasons

It is the duty of the prosecution to establish the charge of offence against the accused person by leading cogent and reliable evidence.

Now, let's see how far the prosecution has been able to bring home the charges labeled against the accused person beyond reasonable doubts.

This is a proceeding u/s 409 of IPC involving fraudulent transactions/ criminal breach of trust of public money.

The criminal breach of trust would inter alia mean using or disposing off the property by a person who is entrusted with or has otherwise dominion there over. Such an act must not only be done dishonestly but also be done in violation of any direction of law or any contract express or implied relating to carrying out the trust. The prosecution must prove two essential facts that is factum of entrustment and factum of misappropriation of entrusted articles. This principle of law is enunciated by the Apex Court in a judgment pronounced in a case between **Sudhir Shantilal Mehta v. Central Bureau of Investigation** reported in **(2009) 3 SCC (Cri.) Page 646**.

The principle of law as enunciated by Apex court as well as the language of the section speak that the prosecution at the outset must show that the accused being a public servant acquired dominion over the public property.

P.W.1, being the defacto complainant deposed that she used to receive sum of Rs.600/- per month as a senior citizen but the accused person used to siphon the money. However in cross-examination she stated that she has no knowledge about the contents of the FIR. She further adduced that she had received the entire money which has been transmitted to her account.

Alauddin Mia, the husband of the complainant (PW.2) adduced that he has no knowledge of facts and circumstances of the case.

There is no piece of document showing that the accused persons have acquired dominion over the public money and being public servant he was entrusted with public money. The testimonies of PW.1 and PW.2 do not reveal any cogent material in order to establish the elements of section 409 IPC.

It can therefore be concluded that the factum of entrustment and factum of misappropriation of entrusted articles are not proved beyond shadow of reasonable doubt.

In view of the discussions made above it evident that evidences on record are not found sufficient and cogent to prove the guilt of accused person beyond shadow of reasonable doubts.

Hence, it is

ordered

that sole accused person namely, Abu Bakkar Siddik (A1) is acquitted u/s 235(1) Cr.P.C from the charge u/s 409 of IPC.

Accused is released from bail bonds.

Sureties are discharged from their bonds.

Alamat property, if any, be disposed of after expiry of appeal period.

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 the purpose of Section 428 Cr.P.C.
A1	Abu Bakkar Siddik	05.01.2018	05.01.2018	u/s 409 of IPC	Acquitted	N.A	N.A

Dictated and Corrected by me.

Additional Sessions Judge,
2nd Court, Cooch Behar

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2nd Court, Cooch Behar
JO Code No.WB00825