

APPENDIX-12

**::IN THE COURT OF ADDL.CHIEF JUDICIAL
MAGISTRATE:::DIBRUGARH::**

Present: POOJA DEVI, ADDL.CJM, DIBRUGARH

Dated: 17.02.2023

G.R. Case No. 1702/2022

Charge: u/s 379 IPC

Dibrugarh P.S. FIR No. 700 OF 2022



COMPLAINANT	STATE OF ASSAM
REPRESENTED BY	SRI DEVAJANI GOGOI Asst. Public Prosecutor
ACCUSED	1. SRI RAJU ROY (A1) S/O JIBON CHANDRA ROY R/O AMOLAPATTY, GUARD QUARTER P.S. DIBRUGARH DIST. DIBRUGARH
PRESENTED BY	IMTIAZ PARBEJ Ld. Legal Aid counsel for the defence



(PRC No. 2876/2022)

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Date of Offence	13.11.2022
Date of FIR	13.11.2022
Date of Charge sheet	29.11.2022
Date of Framing of Charges	30.12.2022
Date of commencement of evidence	17.02.2023
Date on which judgment is reserved	17.02.2023
Date of Judgment	17.02.2023
Date of Sentencing Order, if any	None

Rank of the Accused	Name of Accused	Date of arrest	Date Released on bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of detention Undergone during Trial for purposed of Sec. 428 Cr.P.C.
A1	SRI RAJU ROY	13.11.2022	12.01.2023	379 IPC	Acquitted	N/A	None

APPENDIX

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Sri Manoj Kumar Yadav	Informant

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B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1	Nil	Nil
DW2	Nil	Nil



C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1	Nil	Nil
DW2	Nil	Nil

LIST PROSECUTION/DEFENCE/COURT EXHIBITS:

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Exhibit P1/PW1	FIR

B. Defence:

Sr. No.	Exhibit Number	Description
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1	Exhibit D-1/DW1	Nil
2	Exhibit D-2/DW2	Nil



c. Court Exhibits:

Sr. No.	Exhibit Number	Description
1	Exhibit C-1/CW1	Nil
2	Exhibit C-2/CW2	Nil

d. Material Objects:

Sr. No.	Exhibit Number	Description
1	MO1	Nil
2	MO2	Nil

Addl.CJM, Dibrugarh

Addl. Chief Judicial Magistrate
DIBRUGARH

J U D G M E N T

FACTUAL MATRIX AS CANVASSED IN THE F.I.R

1. The prosecution case in brief as enumerated in the FIR is that on the day of occurrence, some unknown miscreant has stolen the bicycle of the informant from his house in the wee hours and that the thief was apprehended by the local people and the bicycle was recovered. Hence, this case was filed.



COMMENCEMENT AND COMPLETION OF INVESTIGATION

2. On the basis of the FIR, lodged by the informant, I/C, Milan Nagar Police Out Post, forwarded the same to the O/C, Dibrugarh P.S. for registering a case. Accordingly, O/C, Dibrugarh P.S. registered a case as Dibrugarh P.S case no. 700 of 2022 U/S 379 IPC. Police conducted investigation into the case and filed charge-sheet against the accused person Sri Raju Roy under section 379 IPC.

TRIAL

3. During trial, accused person appeared before this Court and accordingly copy was furnished to him under section 207 Cr PC. Considering the materials on record and after hearing both sides, charge under section 379

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IPC was framed against the accused. When the charge was read over and explained to the accused, the accused person pleaded not guilty and claimed to be tried. During trial prosecution side examined the informant of this case and after examining the informant, further prosecution evidence is closed. Recording of statement of the accused person u/s 313 Cr.P.C. is dispensed with due to dearth of sufficient materials against the accused person.

4. I have heard learned counsels for both the sides and gone through the evidence on record. Upon hearing the following point for determination has been framed to arrive at a definite conclusion.

5. Point for determination

- i. Whether on 13.11.2022, at around 1.20 PM, the accused person dishonestly took away the bicycle of the informant, out of his possession without his consent and thereafter moved such article in order to such taking and thereby committed an offence punishable under Section 379 IPC?

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DECISIONS, DISCUSSIONS AND REASONS
THEREOF.

6. Now let me scan the prosecution witness in order to arrive at a definite finding.

Evidence of the informant, victim and police witnesses.

7. PW1 Sri Monuj Kumar Yadav deposed that he is the informant of this case and he filed this case against the accused person Sri Raju Roy in the year 2022. PW1 further deposed that on the day of occurrence, the accused person had stolen his bi-cycle, as a result of which, he filed this case against the accused. Later on, the bi-cycle was recovered by the police. PW1 further deposed that he does not want to continue with the case anymore. PW1 further deposed that he does not have any objection if the accused person is acquitted from the case. PW1 identified the FIR as exhibit P1/PW1 and his signature as exhibit P1(1)/PW1.
8. I have gone through the FIR which is marked as Exhibit P1/PW1. After going through the same, I find that there exists contradiction in the FIR and the evidence deposed by the informant. Moreover, it has been stated by PW1 that he does not want to continue with the case anymore and that, he has no objection if the accused



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person is acquitted from this case. Situated thus, I find that there exists no incriminating materials against the accused person and as such due to lack of viable evidence the accused person is acquitted from the instant case.



Order

9. Considering above, I find that the prosecution has failed to prove its case beyond all reasonable doubts against the accused person and as such the accused person namely **Sri Raju Roy is** hereby acquitted of the offence punishable u/s 379 IPC and set at liberty.
10. The bail bond executed by the accused person is extended for next six months as per the provisions of section 437A Cr.P.C. as amended up to date. Surety is discharged.
11. Judgment is prepared in separate sheets and tagged with the case record.

Given under my hand and seal of this court on this 17th day of February, 2023.

(Pooja Devi)

Addl. Chief Judicial Magistrate,

Addl. Chief Judicial Magistrate
Dibrugarh.

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