

ASDB020111932022



**::IN THE COURT OF CHIEF JUDICIAL MAGISTRATE::**

**::DIBRUGARH::**

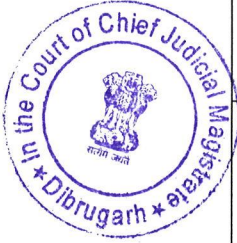
**Present: MR. PRITISH CHOUDHURY, CJM, DIBRUGARH**

**Dated: 30.07.2025**

**P.R. Case No. 2922/2022 (G.R. Case No. 1568/2022)**

**Charge: u/s 380 of IPC**

**Dibrugarh P.S. FIR No. 645/2022**

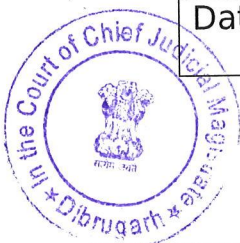


|                |                                                                                                     |
|----------------|-----------------------------------------------------------------------------------------------------|
| COMPLAINANT    | STATE OF ASSAM                                                                                      |
| REPRESENTED BY | DEVAJANI GOGOI<br>Asst. Public Prosecutor                                                           |
| ACCUSED        | <b>A1. YAKUB ALI @ GUDDU</b><br>s/o NAZU ALI<br>r/o KALIBARI ILLAHIPATTY, P.S. &<br>DIST. DIBRUGARH |
| REPRESENTED BY | P.L. GUPTA,<br>Ld. Legal Aid Counsel for the<br>accused                                             |

430/25  
Chief Judicial Magistrate  
Dibrugarh

**P.R. Case No. 2922/2022 (G.R. Case No. 1568/2022)**

|                                    |                               |
|------------------------------------|-------------------------------|
| Date of Offence                    | Four days prior to 18.10.2022 |
| Date of FIR                        | 18.10.2022                    |
| Date of Charge sheet               | 25.11.2022                    |
| Date of Framing of Charges         | 25.03.2025                    |
| Date of Commencement of evidence   | 30.07.2025                    |
| Date on which judgment is reserved | 30.07.2025                    |
| Date of Judgment                   | 30.07.2025                    |
| 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                  | Yakub Ali       | 19.10.22       | 26.12.2022            | U/s 380, IPC          | Acquitted                      | N/A              | None                                                                        |

*9306/2022*  
Chief Judicial Magistrate  
Dibrugarh

## **J U D G M E N T**

1. The case of the prosecution in brief as enumerated by the informant Basant Bagaria in the FIR is that, few thieves had entered into his premises from Walford side and stole a number of items from his godown which are as follows:-

- i. Ring Bowl (50 nos.),
- ii. Saucepan Lid (10 nos.),
- iii. Steel Drum (12 nos. with Lid 16 nos.),
- iv. Steel tawa (2 nos.),
- v. Silver Parat (3 Nos.),
- vi. Steel Gamla (22 nos.),
- vii. Steel Jug (7 nos.),
- viii. mobile phone (3 nos.),
- ix. Steel and silver idli sancha (3 nos.)

The names of the thieves as stated by the informant are Babu Tanti, Rupam Gowala, Yakub Ali and Irfan Hussain. It is further alleged that the same was going on for 4 days prior to lodging of the FIR and many of the items were missing from the godown. It was also alleged by the informant that they were able to recover only few items which the thief was trying to take away in a rickshaw in the



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evening of 18.10.2022, but he managed to run away.

2. The police registered the case being Dibrugarh P.S. Case No. 645/2022 u/s 380, IPC and started investigation of the case. During investigation, police arrested Irfan Hussain, **Md. Yakub Ali @ Guddu**, Bablu Tanti @ Nigru and Rupom Gowala @ Pagla. Later on, accused Babu Tanti @ Nigru was allowed to go on bail vide order dated 10.11.2022. After completion of the investigation, the I.O. of this case submitted charge-sheet U/S - 380 of IPC, against the accused persons Babu Tanti @ Nigru, **Md. Yakub Ali @ Guddu**, Rupam Gowala @ Pagal and Irfan Hussain.

3. Thereafter, accused persons **Md. Yakub Ali @ Guddu**, Rupam Gowala @ Pagal and Irfan Hussain were produced before this Court and they were allowed to go on P.R. Bond vide order dated 26.12.2022 to face trial. However, the case was filed against the accused persons Babu Tanti @ Nigru, Rupam Gowala @ Pagal and Irfan Hussain due to their prolonged non-appearance vide orders dated 25.03.2025, 07.10.2024 and 20.06.2024 respectively. Thereafter, accused person **Md. Yakub Ali @ Guddu** was supplied with the copies of relevant documents, as required U/S - 207 of Cr.P.C. Considering the relevant documents and

upon hearing both the parties, formal charge under section 380 of IPC was framed, read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

4. Prosecution had examined 1 (one) witness in support of the case i.e. the informant of the case. After examining the witness, the evidence from the prosecution side was closed.

5. As there were no incriminating materials, the statement of accused person under section 313 Cr.P.C was dispensed with.

6. I have heard arguments advanced by the Ld. Counsel for the accused person as well as the Ld. A.P.P. for the State and also perused the case record carefully.

**7. POINT FOR DETERMINATION IN THIS CASE:-**

I. Whether the accused person on 18.10.2022 and the four days prior to 18.10.2022, committed theft of Ring Bowl (50 nos.), Saucepan Lid (10 nos.), Steel Drum (12 nos. with Lid 16 nos.), Steel tawa (2 nos.), Silver Parat (3 Nos.), Steel Gamla (22 nos.), Steel Jug (7 nos.), mobile phone (3 nos.), Steel and silver idli sancha (3 nos.) from the Godwon of the informant and had thereby committed an offence punishable u/s: 380 of I.P.C.?



93012/15  
Chief Judicial Magistrate  
Dibrugarh

**DISCUSSION OF EVIDENCE, DECISION AND REASONS**  
**THEREOF:**

8. The prosecution had examined one witness in support of their case. Now, let me appreciate the evidence of the witness in the instant case as well as other materials on record and thereby arrive at a just decision -

9. **PW1 Basant Bagaria deposed in his evidence-in-chief that** he is the informant of this case and he does not know the accused person. PW1 further deposed that in the year 2022, he had filed this case, but now, he does not want to run the case and he wants to close the case. PW1 identified the FIR as Ext. P1/PW1 (containing two pages) and he further identified his signatures in the FIR as Ext. P1(1)/PW1 and Ext. P1(2)/PW1.

10. **PW1 had in his cross-examination stated that** he has no objection if the accused person is acquitted.

11. Now, on going through the evidence on record, I find some contradiction in the evidence of the informant as PW1 to that of what he has stated in his ejahar.

12. In the ejahar, the informant had stated that few thieves had entered into his premises from



Walford side and stole a number of items from his godown which are as follows:-

- i. Ring Bowl (50 nos.),
- ii. Saucepan Lid (10 nos.),
- iii. Steel Drum (12 nos. with Lid 16 nos.),
- iv. Steel tawa (2 nos.),
- v. Silver Parat (3 Nos.),
- vi. Steel Gamla (22 nos.),
- vii. Steel Jug (7 nos.),
- viii. mobile phone (3 nos.),
- ix. Steel and silver idli sancha (3 nos.)



The names of the thieves as stated by the informant are Babu Tanti, Rupam Gowala, Yakub Ali and Irfan Hussain. It is further alleged that the same was going on for 4 days prior to lodging of the FIR and many of the items were missing from the godown. It was also alleged by the informant that they were able to recover only few items which the thief was trying to take away in a rickshaw in the evening of 18.10.2022, and that he managed to run away, but the informant in his evidence before the court as PW1 did not state about any such fact as stated by him in his ejahar and on the contrary, he had deposed that although he had filed this case in

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Dibrugarh

the year 2022, but now, he does not want to run the case and he wants to close the case, and hence, it can be said that the evidence of the informant is not in corroboration with that of his ejahar.

**13.** Thus from the evidence of the PW1, I find that the informant in his evidence had only stated that he had filed this case in the year 2022, but now, he does not want to run the case and he wants to close the case and he did not state anything about the accused person committing theft from his godown, thus contradicting the facts stated in the ejahar and bringing a doubt on the entire prosecution story.

**14.** Further, the PW1 had deposed in his cross-examination that he does not have any objection if the accused person is acquitted.

**15.** In this case, the informant had alleged in his ejahar that the accused person had committed theft from his godown and accordingly charge u/s: 380 IPC was framed against the accused person and thereafter the prosecution examined the informant as PW1 to substantiate the facts that he had stated in his ejahar but the informant had in his evidence did not incriminate the accused person even in the slightest possible manner and hence, the case stands not proved against the accused person.



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**16.** From the discussions made above, it transpires that the evidence on record falls short of proving the allegation against the accused person beyond all reasonable doubt. In this case, it is seen that the informant himself had not corroborated any of the facts stated in the ejahar and hence the facts stated in the ejahar can never be proved against the accused person no matter how much evidence is taken as the informant himself had not supported any of the fact stated in the ejahar. The accused person therefore is entitled to acquittal.



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**ORDER**

I, therefore acquit the accused person-

**A1. Yakub Ali @ Guddu**

of the charge under section 380 of I.P.C with a direction to set him forth at his liberty.

Given under my hand and seal of this court on this 30<sup>th</sup> Day of July, 2025.



9/30/2/25  
**(Sri. Prithish Choudhury)**  
**Chief Judicial Magistrate,**  
**Dibrugarh**  
Chief Judicial Magistrate  
Dibrugarh

**APPENDIX**

**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES**

**A. Prosecution:**

| <b>RANK</b> | <b>NAME</b>    | <b>NATURE OF EVIDENCE</b> |
|-------------|----------------|---------------------------|
| PW1         | Basant Bagaria | Informant                 |

**B. Defence Witnesses, if any:** NONE.

**C. Court Witnesses, if any:** NONE.

**LIST OF PROSECUTION/DEFENCE/COURT**

**EXHIBITS:**

**A. Prosecution:**

| <b>Sl. No.</b> | <b>Exhibit Number</b> | <b>Description</b> |
|----------------|-----------------------|--------------------|
| 1              | Exhibit P1/PW1        | FIR                |
| 2              | Exhibit P1(1)/PW1     | Signature of PW 1  |
| 3              | Exhibit P1(2)/PW1     | Signature of PW 1  |

**B. Defence:** NONE.

**C. Court Exhibits:** NONE.

**D. Material Objects:** NONE.

  
**CJM, Dibrugarh**  
Chief Judicial Magistrate  
Dibrugarh