

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM

G.R. CASE NO.1771/2016

State

Vs.

**Sri Sanjit Amsong @ Bidyut Amsong @
Bipin Das
Son of Sri Fagusing Amsong
Resident of village: Bhoksong
P.S.-Baithalangso,
District- West Karbi Anglong, Assam**

Present: Sri N.K. Das, AJS
Chief Judicial Magistrate, Morigaon

For the state: Mrs. A. Kakati, Asstt. P.P.

For the defense: Mr. P. Bora, Mr. P. Patar, Advocates

Charged framed: u/s 384 of IPC

Evidence recorded on: 13-5-2019 and 11-10-2019

Statement of defense recorded on: 4-11-2019

Argument heard on: 4-11-2019

Judgment delivered on: 19-11-2019

JUDGMENT

1. The prosecution case in brief is that one Sri Babul Patar @ Mrinal lodged an ejahar in the Nellie police out-post of Jagiroad police station alleging therein that while the informant was at Shillong on 3-7-2016, in connection with his personal works, one miscreant, at about 5.17 p.m., by introducing himself as Sri Bidyut Amsong and Chairman of T.L.A. extremist organization, demanded money over phone by the phone bearing No.9856820549, telling the informant that he was the mastermind of bomb blast at Raha and Jagiroad and thereafter, threatened the informant. Again the said miscreant, with similar aims, called the informant on 11-7-2016 at about 6.50 p.m. and on 13-7-2016 at 6.22 p.m., over mobile phone bearing Nos.8014123088 and 9077381578, respectively, while the informant was at

his own house at Nellie and demanded money and threatened him. The informant further stated in his ejahar that he was the public representative of Tiwa Autonomous Council constituency No.13 i.e. Nellie Khola constituency and therefore, he had to attend public meeting at several places and therefore, he perceived threat to his life and property. Therefore, he prayed for taking necessary action against the extremist and securing his life and property.

2. The ejahar was received in the Nellie police out-post on 16-7-2016 vide Nellie police out post GD Entry No.313 dated 16-7-2016 at 11.00 a.m. and the ejahar was forwarded to the Officer-in-Charge of Jagiroad police station for registering a case under proper sections of law. In the meantime, one assistant sub inspector of police Sri S.P. Phukan was assigned to take up the preliminary steps of the investigation and sub inspector Sri Kabir Singh Limboo, who was the In-charge of the said police out post, decided to complete the investigation himself. Subsequently, the ejahar was received in the Jagiroad police station on the same day i.e. on 16-7-2016 and a Jagiroad police station case No.335/2016 under section 387 of IPC was registered and the investigation already taken up at the Nellie police out-post was endorsed by the officer-in-charge of Jagiroad police station.

3. During investigation, the accused Sri Sanjit Amsong @ Bidyut Amsong @ Bipin Das was shown as arrested in this case as he was already arrested in connection with Jagiroad police station case No.242/2016 under sections 16 (1)(D) UA (P) Act, read with section 5 of E.S. Act. Subsequently, on completion of investigation, police submitted charge sheet against the said accused under sections 387/120(B)/ IPC, read with section 16 (1) (b)/20 UA (P) Act.

4. On appearance before court, copies of all relevant documents were furnished to the accused person under section 207 CrPC. As the case was found to be exclusively triable by the Hon'ble Court of Session, the learned Addl. Chief Judicial Magistrate, Morigaon was pleased to commit this case to the court of Hon'ble Sessions Judge, Morigaon for trial. Subsequently, however, the case record of this case and the case diary was received back from the court of Hon'ble Sessions Judge, Morigaon along with an order dated 11-10-2018 passed by the Hon'ble Sessions Judge, Morigaon in connection with Sessions Case No.105/2018 communicated vide Memo No.DJM/6013 dated 12th October, 2018. Vide the aforesaid order, the Hon'ble Sessions Judge, Morigaon was pleased to transmit the

case record to the court of Chief Judicial Magistrate, Morigaon for doing the needful for further proceeding of the case with the observation that there are materials to justify framing of charge under section 384 IPC only against the accused. Accordingly, charge under section 384 IPC was framed against the accused. The accused pleaded not guilty and claimed to be tried, when the charge was read over and explained to the accused person.

5. Prosecution in support of its case examined 3 (three) witnesses namely, Sri Babul Patar (Mrinal), Sri Mukut Deka and Sri Palash Saha, as PW-1, PW-2 and PW-3, respectively. The ejahar is exhibited as exhibit-1 and the signature of the informant is proved as exhibit-1(1). While under examination under section 313 CrPC the accused denied the allegations leveled against him. Defense side refused to adduce any evidence.

6. I have heard the arguments of Smti. Alakananda Kakati, learned Asstt. P.P. as well as Mr. Punaram Bora, assisted by Mr. Palash Patar, learned defence counsels, perused the case record and considered the same. The following point for determination is formulated:

- i. Whether the accused person, on or about 3-7-2016 at about 5.17 p.m., on 11-7-2016 at about 6.50 p.m. and on or about 13-7-2016 at about 6.22 p.m., at village Nellie, under Jagiroad police station of Morigaon district, committed extortion by putting Sri Babul Patar @ Mrinal in fear of injury over telephone bearing mobile Nos.9856820549/8014123088/9077381578 and thereby dishonestly induced Sri Babul Patar @ Mrinal to deliver to the accused money and thereby committed an offence punishable under section 384 of IPC?

Discussion of evidence, decision and reasons therefor:

7. We have already noted the contents of the ejahar. The informant Sri Babul Patar (Mrinal) deposed before the court as PW-1. He did not support his own ejahar so far as threatening and demand of money is concerned as indicated in his ejahar (exhibit-1). It is rather stated that someone requested him for donation only. There was no demand for money. Further, he does not know the accused and there is nothing in the case record to show that it was the present accused, who, by using the phone numbers indicated in the ejahar, contacted the informant in his own

phone number. Therefore, from the evidence of PW-1, it could not be determined as to whether the present accused himself, phoned the informant for donation.

8. Likewise, PW-2 Sri Mukut Deka also stated that it was the informant, who told him that someone requested for monetary help for an organization; however, no threat or intimidation was given. Likewise PW-3 Sri Palash Saha also stated that no threat was given neither there was any demand for money.

9. While under examination under section 313 CrPC, the accused completely denied the allegations leveled against him and he expressed ignorance that he knows the informant.

10. We have seen that neither of the three PWs, as indicated above, supported the allegation leveled in the ejahar. The allegation of threatening over phone, and putting the person in fear is absent in the deposition of three PWs. The identity of the accused is also not established from the deposition of three PWs.

11. In view of the deposition of the aforesaid witnesses, the prosecution side also did not proceed further to summon and examine the remaining witnesses, as their evidence is not likely to improve the prosecution case and closed the prosecution evidence and perhaps rightly so.

12. For the aforesaid reasons and discussion the point for determination is answered in the negative.

13. The prosecution has failed to prove the case against the accused person. As such, the accused person is found not guilty and accordingly acquitted of offence under section 384 IPC alleged against him. He be set at liberty forthwith. His bail bond shall remain in force for six months from today in view of section 437A of CrPC.

14. The judgment is pronounced in open court and given under my hand and seal on this 19th day of November, 2019 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

APPENDIX

- (A) **PROSECUTION EXHIBITS:**
Ext.-1: Ejahar
Ext.-1 (1): Signature of Sri Babul Patar
- (B) **DEFENCE EXHIBITS:**
None
- (C) **EXHIBITS PRODUCED BY WITNESSES:**
None
- (D) **COURT EXHIBITS:**
None
- (E) **PROSECUTION WITNESSES:**
PW-1: Sri Babul Patar @ Mrinal
PW-2: Sri Mukut Deka
PW-3: Sri Palash Saha
- (F) **DEFENCE WITNESSES:**
None
- (G) **COURT WITNESSES:**
None

Chief Judicial Magistrate, Morigaon