

DISTRICT: MORIGAON

IN THE COURT OF ADDL. CHIEF JUDL.MAGISTRATE,

MORIGAON::::::::::ASSAM.

PRC Case No. 881 of 2019

U/S 380 of IPC.

PROSECUTOR: STATE OF ASSAM

-VS.-

ACCUSED: MD. JOHIRUL ISLAM

Present : Smti. S. Acharyya, AJS,  
Addl. Chief Judicial Magistrate,  
Morigaon.

**APPEARANCE:**

For the State : Mr. P. Hazarika, Learned Addl. Public Prosecutor.  
For the accused person : Mr. B. Borah, Ld. Advocate.  
Charge framed on : 19.08.2019  
Evidence recorded on : 29.11.2019  
Argument heard on : 29.11.2019.  
Judgment delivered on : 29.11.2019.

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

1. The prosecution case in brief is that the informant Biddya Sagar lodged an ejahar stating inter alia that on 02.04.2019, at about 11.15 PM, the accused person was caught red-handed when he had been coming from the godown after committing theft of one *lachi* of jute. Hence the case.
2. On receipt of the 'ejahar' at the police station, the same was registered as Moirabari P.S. Case No. 69/2019 and the matter was investigated upon.
3. After completion of investigation police filed a charge-sheet against the accused person Md. Johirul Islam under section 380 IPC.
4. On appearance of the accused person, he was allowed to go on bail. Relevant documents of the case were furnished to him. Upon perusal of materials on record and after hearing both sides, charge under section 380 IPC has been framed, read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
5. The examination under section 313 Cr.P.C. of the accused person is  
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dispensed with as found not necessary.

**6.** I have heard the argument advanced by the learned counsels for both sides.

**7.** Upon hearing and on perusal of the record I have framed the following point for determination:

(i) Whether the accused person, on 02.04.2018, at about 11.15 PM, at Tatikata Pathar under PS Moirabari and Dist.-Morigaon, committed theft of *Morapat* from the house of the informant Bidhya Sagar and thereby committed an offense punishable U/S 380 of IPC?

**DISCUSSION, DECISIONS AND REASONS FOR THE DECISIONS:**

**8.** PW1 Sri Bidhya Sagar, who is the informant and PW2 Md. Abdul Hannan inter alia deposed that informant filed the case out of suspicion and presently they have no allegation against the accused person and they have no objection, if the accused person is acquitted. PW1 exhibited the ejahar as Ext.1 and his signature as Ext.1(1).

**9.** I have carefully gone through the evidence on record. From the evidences it appears that PW1, who is the informant, has not supported the prosecution case, as stated in the ejahar. In the result, there is no incriminating evidence against the accused person.

**10.** In view of above discussion, the accused Md. Johirul Islam is acquitted of charge U/S 380 of IPC and set at liberty forthwith.

**11.** Bail bond shall remain in force for next six months.

**12.** The zimma of the seized articles be given to its owner.

**13.** The case is disposed of on contest.

**14.** Given under my hand and seal, today, the 29<sup>th</sup> day of November, 2019.

Dictated and corrected  
by me.

S. ACHARYYA  
Addl Chief Judicial Magistrate  
Morigaon.

S. ACHARYYA  
Addl Chief Judicial Magistrate  
Morigaon.

Dictation taken and  
transcribed be me.

Computer Typist.

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APPENDIX:

Prosecution witness:

PW1- Sri Biddya Sagar.

PW2- Md. Abdul Hannan

Prosecution exhibits:

Ext.1- Ejahar.

Defence witness:

Nil.

Defence exhibit:

Nil.

Dictated and corrected  
by me.

S. ACHARYYA  
Addl Chief Judicial Magistrate  
Morigaon.

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Addl Chief Judicial Magistrate  
Morigaon.

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transcribed be me.

Computer Typist.