

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM

**GR No. 4064/2019
(PRC No. 66/2020)**

State

Vs.

**Smti. Bobby Baruah
Daughter of Late Khagen Baruah
Resident of – Pachatia, Ward No.-2
P.S.- Morigaon
District- morigaon, Assam**

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

For the state: Mrs. A. Kakati, Addl. P.P.
For the defense: Mrs. N. Patar, Advocate

Charge framed: u/s 380 of IPC on 22-1-2020.
Evidence recorded on: 22-1-2020
Argument heard on: 22-1-2020
Judgment delivered on: 24-1-2020

JUDGMENT

1. The prosecution case in brief is that one Shri Lohit Sardar lodged an ejahar in the Morigaon police station alleging therein that in the month of October, 2019, a woman named Bobby worked at his house as maid. From 30-10-2019, the aforementioned informant was unable to trace out his Samsung mobile handset. He was searching for the same in the house assuming that the handset was misplaced inside the house. However, on 13-12-2019, when he tried to contact the phone number, the call was received by Smti. Pramila Baruah, who is the mother of Bobby. Therefore, the informant has prayed for taking necessary action by lodging the ejahar.

2. The ejahar was received in the Morigaon police station on 13-12-2019 and a Morigaon police station case No.1082/2019 under section 380 of IPC was registered

and one sub inspector of police (P) Sri Longsing Kro was assigned to investigate the case by the Officer-in-Charge of the said police station. On completion of investigation police submitted charge sheet against the accused Smti. Bobby Baruah under section 380 of IPC.

3. On appearance before court copies of all relevant documents were furnished to the accused under section 207 CrPC. After hearing both sides, after perusing case record and on prima facie materials of offence under section 380 IPC being found against the above named accused person, formal charge under section 380 IPC was framed, which was read over and explained to the accused to which she pleaded not guilty and claimed to be tried.

4. Prosecution in support of its case examined 1 (one) witness namely Sri Lohit Sardar, as PW-1, who is the informant cum alleged victim of the case and also exhibited 2 (two) documents including the ejahar. Examination of the accused person under section 313 CrPC was dispensed with for lack of incriminating materials. Defense side refused to adduce any evidence.

5. I have heard the argument of Mrs. Alakananda Kakati, learned APP as well as the argument of Mrs. Nayanjyoti Patar, learned defence counsel, perused the case record and considered the same. The following point for determination is formulated:

- i. Whether the accused person, in the month of October, 2019, from the residence of Sri Lohit Sarkar situated at Magistrate colony under Morigaon police station of Morigaon district, committed theft of a Samsung mobile handset and thereby committed an offence punishable under section 380 of IPC?

Discussion of evidence, decision and reasons therefor:

6. The informant cum alleged victim, as PW-1, in his deposition has not supported his own case and did not implicate the accused with the alleged offence. The PW-1 deposed that he has already amicably settled the matter with the accused, who was working in his house as a maid. According to PW-1, police seized all the stolen mobile handsets and given in his zimma and as such, he no longer wants to proceed with the case. The zimma nama is proved as exhibit-2 where in PW-1 confirmed his signature as exhibit-2(1).

7. It is seen that there is absolutely nothing in the evidence of the witness against the accused person to implicate her with the alleged offence. The key witness, who is the informant cum alleged victim of the case, did not implicate the accused person with the alleged offence. There is no mention of any torture or harassment in the evidence of the witness. In view of the deposition of the witness, the prosecution side 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.

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

9. 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 the offence under section 380 IPC alleged against her. She be set at liberty forthwith. Her bail bond shall remain in force for six months from today in view of section 437A of CrPC.

10. The zimma of the three mobile handsets and one SIM card, which were given in zimma of the informant vide zimma nama bearing no.136/2019, is made absolute.

11. The judgment is pronounced in open court and given under my hand and seal on this 24th day of January, 2020 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

APPENDIX

(A) PROSECUTION EXHIBITS:

Ext.-1: Ejahar

Ext.-1(1): Signature of Sri Lohit Sardar

Ext.-2: Zimma Nama

Ext.-2(1): Signature of Sri Lohit Sardar

(B) DEFENCE EXHIBITS

None

(C) EXHIBITS PRODUCED BY WITNESSES

None

(D) COURT EXHIBITS

None

(E) PROSECUTION WITNESSES

P.W.-1: Md. Lohit Sardar

(F) DEFENCE WITNESSES

None

(G) COURT WITNESSES

None

Chief Judicial Magistrate, Morigaon