

DISTRICT: MORIGAON

IN THE COURT OF ADDL. CHIEF JUDL.MAGISTRATE,

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

GR Case No. 372 of 2018

U/S 457/380 of IPC.

PROSECUTOR: STATE OF ASSAM

-VS.-

ACCUSED: MD. MAHSIN AHMED

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

**APPEARANCE:**

For the State : Mr. D. Nath, Learned Asstt. Public Prosecutor.  
For the accused person : Mr. J. A. Bhuttoo, Learned Advocate.  
Charge framed on : 27.03.2016.  
Evidence recorded on : 21.06.2019  
Argument heard on : 21.06.2019.  
Judgment delivered on : 21.06.2019.

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

1. The prosecution case in brief is that the informant Md. Iftikar Hussain, lodged an ejahar stating inter alia that on 11.02.2018, at about 11.30 PM, his mobile handset was stolen away from his house. That on the next day, police recovered his mobile handset from the possession of the accused Mahsin Ahmed. Hence the case.

2. On receipt of the 'ejahar' at the police station, the same was registered as Laharighat P.S. Case No. 36/2018 and the matter was investigated upon.

3. After completion of investigation police filed a charge-sheet

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against the accused person Md. Mahsin Ahmed under section 457/380 IPC.

4. On appearance of the accused person he was allowed to go on bail. Relevant documents of the case was furnished to him. Finding materials, charges under section 457/380 IPC has been framed in writing, read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

5. The prosecution in support of its case examined two witnesses. Whereas, the defence side has not examined any witness in support of its defence.

6. The examination under section 313 Cr.P.C. of the accused persons is dispensed with as found not necessary.

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

8. Upon hearing and on perusal of the record I have framed the following points for determination:

(i) Whether the accused person, on 11.02.2018 at about 11.30 PM, at Tengaguri Kacharigaon under PS Laharighat and Dist.Morigaon committed lurking house trespass by night by entering in to the house of Md. Iftikar Hussain in order to commit theft and thereby committed an offense punishable under section 457 of IPC?

(ii) Whether the accused person, on the same date, time and place, committed theft of mobile handset in the house of Md. Iftikar Hussain at Tengaguri Kacharigaon and thereby committed an offense punishable Under Section 380 of IPC?

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

9. PW1 Md. Iftikar Hussain, who is the informant inter alia deposed that at about 1 year ago his mobile handset was stolen from his house and he got back his mobile handset and he filed this case out of misunderstanding against the accused person. That presently, he has no allegation against the accused person and he has no objection, if the accused person is acquitted. He exhibited the ejahar as Ext.1 and his signature as Ext.1(1).

10. PW2 Md. Mustufa Kamal inter alia deposed that he knows nothing about the case.

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11. I have carefully gone through the evidence on record. From the evidence of PW1 it appears that he filed the case out of misunderstanding against the accused person. From the evidence of PW2, it appears that he knows nothing about the case. In the result, there is no incriminating evidence against the accused person.

12. In view of above discussion, the accused person Md. Mahsin Ahmed is acquitted of offences U/S 457/380 IPC and set at liberty forthwith.

13. Bail bond shall remain in force for next six months.

14. The case is disposed of on contest.

15. Given under my hand and seal, today, the 21<sup>st</sup> day of June, 2019.

Dictated and corrected  
by me.

S. ACHARYYA  
Addl Chief Judicial Magistrate  
Morigaon.

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Addl Chief Judicial Magistrate  
Morigaon.

Dictation taken and  
transcribed be me.

Computer Typist.

APPENDIX:

Prosecution witness:

PW1- Md. Iftikar Hussain

PW2- Md. Mustufa Kamal

Prosecution exhibits:

Ext.1 - Ejahar

Defence witness:

Nil.

Defence exhibit:

Nil.

Dictated and corrected  
by me.

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Addl Chief Judicial Magistrate  
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