

G.R.CASE NO. 2763/2019

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST
CLASS, DIBRUGARH, ASSAM**

G.R.CASE NO. 2763/2019

(U/S- 420/406 IPC)

Present: Smti. Sanskrita Khanikar, A.J.S.

Judicial Magistrate First Class, Dibrugarh

State

- VS -

Sri Sanjay Kumar Prasad

S/O - Late Nageswar Prasad

R/O - Bhabani Market

P.S. - Duliajan

Dist - Dibrugarh, Assam

.....Accused person

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Advocate for the Prosecution : Learned Smti. Lakshmi
Mohan

Advocate for the Defence : Learned Sri Ashim Kumar
Dutta

Evidence recorded on : 05-01-2022

Argument heard on : 05-01-2022

Judgment delivered on : 05-01-2022

J U D G M E N T

1. The prosecution case as stated in the F.I.R. dated 13-07-2019 is that the informant, namely, Sri Rajkishore Yadav deposited Rs. 1,00,000/- in four certificates in Sahara India Ltd. Duliajan Branch and these certificates matured on 07-02-2019. But when the informant approached the Branch Manager, Sahara India Ltd., Duliajan Branch for collecting the payment of the certificate maturity value, the said Branch Manager did not comply with the informant's request.

2. A case was registered at Duliajan P.S. subsequent to the lodging of this F.I.R. Upon completion of investigation, the police submitted charge-sheet against the accused person, namely, Sri Sanjay Kumar Prasad for commission

of the offences u/sec 406/420 of the Indian Penal Code (hereinafter referred to as I.P.C.).

3. The accused person stood for trial. Copies of the relevant documents were furnished to him as required by Section 207 of the Code of Criminal Procedure (hereinafter referred to as Cr.P.C.). Upon finding prima facie case for commission of offences u/sec 406/420 of the IPC, formal charges therein under were framed, read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

4. Prosecution in order to prove its case and to nail the guilt of the accused person has examined only 1 (one) witness namely Sri Rajkishore Yadav being the informant as PW-1.

Prosecution has also taken the aid of the Exhibit 1 being the ejahar.

After recording the prosecution evidence, the statement of the accused person was recorded u/sec 313 of Cr.P.C. The defence plea is that of total denial and the accused person claimed innocence. The defence adduced no evidence.

5. I have heard the arguments from both sides and perused the entire evidence on record.

6. **THE POINT FOR DETERMINATION**

(i) Whether the accused person on 08-02-2013 at Sahara India Ltd., Duliajan Branch cheated the informant by inducing him to deposit Rs. 1,00,000/- in four certificates to him which matured on 07-02-2019 and which was the informant's property and thereby committed an offence punishable u/sec 420 of the IPC?

(ii) Whether the accused person on the same date, time and place, being entrusted with a deposit of Rs. 1,00,000/- in four certificates by the informant, converted the same to his own use and thereby committed an offence punishable u/sec 406 of the IPC?

DISCUSSION, DECISION AND REASONS THEREOF:

7. PW-1 being the informant deposed in his evidence that the accused is known to him. The accused is the Branch Manager of Sahara India Ltd., Duliajan Branch and the informant/PW-1 is his customer. He stated that he had invested some money in Sahara India Ltd. and in that regard, he became dissatisfied with the service of the company. As such, out of anger, he filed the ejahar in the instant case. He further stated that at present the matter in dispute has already been amicably sorted out with the accused and that as such, he would not like to proceed any further against the accused in the instant case. He proved Exhibit 1 as the ejahar lodged by him by identifying Exhibit 1(1) as his signature thereon.

During his cross-examination, he stated that the maturity amount which was due to him has already been received by him. He further stated that she has no objection if the accused is acquitted in the instant case.

8. I have heard the arguments of the learned Asst. Public Prosecutor and the learned defence counsel. Perusal of the case record reveals that upon submission of the learned Asst. Public Prosecutor and her prayer for closing the prosecution evidence, the prosecution evidence was closed as the informant of the instant case has already amicably settled the matter with the accused person and there is no point in dragging the case by summoning the other prosecution witnesses. From the evidence on record, it is quite clear that all the PW-1 being the informant categorically stated in his cross-examination that he has already settled the matter amicably with the accused person and that he has no objection if the accused is acquitted in the instant case as he does not wish to proceed any further in the instant case. The offences u/sec 406/420 are both compoundable offences and keeping in view the deposition of the sole prosecution witness as well as in the absence of any cogent evidence, I am not inclined to hold the accused person guilty of the offences u/sec 406/420 IPC.

9. Situated thus, I am constrained to hold that the prosecution has failed to establish the guilt of the

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accused person, namely, Sri Sanjay Kumar Prasad u/sec 406/420 IPC beyond all reasonable doubt. As such the points of determination are answered in the negative in favour of the accused person.

ORDER

10. In view of the decision made above, the accused, namely, Sri Sanjay Kumar Prasad is acquitted of the offences under sections 406/420 IPC and set at liberty forthwith.

His bail bond shall remain in force for six months from today in compliance with section 437-A, Cr.P.C.

The case is disposed of on contest.

Given under my hand and the seal of this Court on this 5th day of January, 2022 at Dibrugarh.

Typed by: Self

Sanskrita Khanikar

Judicial Magistrate First Class

Dibrugarh

APPENDIX

A. Prosecution witnesses:-

i) Sri Rajkishore Yadav

B. Defence witnesses:- Nil

C. Prosecution exhibits:-

i) The ejahar as Exhibit 1

D. Defence exhibits:- Nil

Sanskrita Khanikar

Judicial Magistrate First Class

Dibrugarh