

IN THE COURT OF SUB-DIVISIONAL JUDICIAL MAGISTRATE (S), GOLAGHAT

PRC 248 of 2019

Section 435 of Indian Penal Code

STATE OF ASSAM

V

GIYASUDDIN ALI.....ACCUSED

PRESENT: - SUNDEEP KASHYAP DAS, LL.M, A.J.S

SUB-DIVISIONAL JUDICIAL MAGISTRATE (S), GOLAGHAT

FOR THE PROSECUTION:

M. SAIKIA

.....ASSISTANT PUBLIC PROSECUTOR FOR THE STATE

FOR THE DEFENCE

J. BHUYAN

.....ADVOCATE FOR THE ACCUSED

EVIDENCE RECORDED ON: -06.04.2021

ARGUMENT HEARD ON: -06.04.2021

JUDGMENT DELIVERED ON: -06.04.2021

JUDGMENT

BRIEF FACTS OF PROSECUTION'S CASE

1. On 13.03.2018, the informant, Sri *Nabajit Borah* has lodged an F.I.R stating inter alia that on the said date, the accused being his driver committed mischief by setting his vehicle, i.e. Bolero Max truck plus bearing registration no-AS-05-C-4552 on fire on National Highway-37. Hence, the informant filed this instant case for taking necessary action.

INVESTIGATION

2. On receipt of *ejahar*, the police registered a case *Golaghat P.S 149/2018*. After completion of investigation, the police submitted a charge-sheet for the offence under section 435 of Indian Penal Code (hereinafter referred to as 'IPC') against the accused person namely Sri ***GIYASUDDIN ALI***

APPEARANCE OF THE ACCUSED PERSON

3. The accused was called upon to enter trial and upon his appearance, copies of relevant documents u/s 173 Cr.P.C were furnished to him in compliance with section 207 Cr.P.C.

FRAMING OF CHARGE

4. Considering the relevant documents and hearing both parties, charge u/s 435 of IPC was framed and the same was read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

WITNESSES EXAMINED AND DOCUMENTS EXHIBITED

5. The prosecution has examined 1 (one) witness and exhibited 1 (one) no of documents.

STATEMENT DEFENCE OF THE ACCUSED u/s 313 Cr.P.C.

6. The examination of the accused person has been dispensed with as there are no incriminating materials against him.

POINT FOR DETERMINATION

Whether, on 10th day of March, 2018, the accused being the driver of the informant, Sri Nabajit Bora committed mischief by setting his vehicle, i.e. Bolero Max truck plus bearing registration no-AS-05-C-4552 on fire on National Highway-37 with intent to cause, or knowing it to be likely that he would thereby cause, damage to the said vehicle to the amount of one hundred or upwards and thereby committed an offence punishable u/s 435 of IPC?

DISCUSSION, DECISIONS AND REASONS THEREOF

EVIDENCE OF P.W.1 [THE INFORMANT cum VICTIM]

7. P.W.1, Sri **NABAJIT BORAH** has deposed that he is the informant cum victim of this case. He has stated that he has lodged the case out of certain misunderstanding. At present, he does not want to continue the case.

CROSS-EXAMINATION

8. Defence declined to cross-examine the said witness.

JUDICIAL DETERMINATION

9. The standard of proof in criminal law is to prove the guilt of the accused beyond reasonable doubt. Basic allegations against the accused reveals from the brief facts of prosecutions' case as stated above. Question arises whether prosecution has been able to discharge the burden?

10. Prosecution manage to examine the primary witness in this case, i.e. the informant cum victim. He has stated that he has amicably settled the matter with the accused person. From the evidence that has been brought on record, it is seen that no offence has been made out against the accused person under any section of law. Both parties are not at loggerheads anymore and further bear no animosity towards one another.

DECISION

The above point is decided in negative and goes in favour of the accused

ORDER

In view of the discussions made above and the decisions reached in the foregoing points for determination, it is held that the prosecution has failed to prove beyond reasonable doubt that the accused person **GIYASUDDIN ALI** has committed the offence under section **435** of IPC as alleged and as such he is acquitted of the charge under section **435** of IPC and he be set at liberty forthwith.

The bail bond shall remain in force for another six months from today.

This judgment is given under my hand and seal of this court on this 06th day of April, 2021

The case is disposed of on contest.

SUNDEEP KASHYAP DAS

SUB-DIVISIONAL JUDICIAL MAGISTRATE (S)

GOLAGHAT

APPENDIX

LIST OF PROSECUTION WITNESS

P.W.1-Sri *NABAJIT BORAH*

LIST OF DEFENCE WITNESS

DW- NONE

LIST OF PROSECUTION EXHIBITS/DOCUMENTS

Ext-1-*FIRST INFORMATION REPORT*

LIST OF DEFENCE EXHIBITS/DOCUMENTS

NONE

SUNDEEP KASHYAP DAS

SUB-DIVISIONAL JUDICIAL MAGISTRATE (S)

GOLAGHAT