

G.R.CASE NO. 1279/2015**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, KOKRAJHAR::
ASSAM.**G.R. Case No. 1279/2016U/S. 379 OF IPC

State of Assam

-Vs-

1. Nawsad Ahmed.

.....Accused persons.

***PRESENT: A.K. BARUAH, LL.M., AJS.
Chief Judicial Magistrate,
Kokrajhar.*****APPEARANCE:**

Advocate for the Prosecution : Mr. K.C. Saha, Addl.PP.

Advocate for the Defence : Mr. Manjit Kr. Ghosh.

Date of evidence : 23.05.2017, 23.06.2017 & 18.11.2017

Date of argument : 03.01.2018

Date of judgment : 17.01.2018

J U D G M E N T

1. The case of the prosecution in brief is that, on 24.12.2016 at about 9.30 A.M., while the complainant namely Drupad Hasda was watching some snake game at Karigaon market, the accused namely Nawsad Ahmed attempted to steal money from the pocket of the complainant. The complainant lodged one FIR at Kokrajhar police station after apprehending the accused person.

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2. On the basis of the FIR lodged by the complainant, a case being Kokrajhar P.S. Case No. 721/2016 u/s. 379/511 of IPC was registered against the accused namely Nawsad Ahmed.
3. After registration of the case, police conducted investigation and submitted charge sheet against the above named accused u/s. 379 of IPC.
4. The accused appeared in this case and copy was furnished to him u/s. 207 of Cr.P.C.. Considering the material on record, charge was framed against the accused u/s. 379 of IPC to which the accused pleaded not guilty and claimed to be tried.
5. **POINT FOR DETERMINATION:**
 - i) Whether the accused Nawsad Ahmed committed theft of cash money from the pocket of the complainant on 24.12.2016 at about 9.30 A.M. at Karigaon market?
6. The prosecution side examined as many as 5 (five) P.W.s in this case. The defence plea is of total denial and defence did not examine any witness. The statement of the accused u/s. 313 of Cr.P.C. was recorded.
7. I have considered all the materials on record, heard both the sides and I proceed to decide as follows:

DECISION AND REASONS FOR THE DECISION:

8. The evidence of the PW.1 is that, he is the complainant of this case. PW.1 does not know the accused. About 4/5 months back, in the market, somebody had stolen away Rs.2700/- from his pocket. PW.1 caught the accused and then he was apprehended by the bazaar committee from where he was handed over to the police. PW.1 lodged one FIR regarding the incident. Although the accused tried to steal away the money but he could not succeed as he was caught by PW.1.

In the cross examination, PW.1 deposed that at the time of the incident, he was watching snake game in the market. In that place, there was some pushing and shoving when one snake moved out from the

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basket. In that pushing and shoving one hand came near the pocket of PW.1 and then he caught the accused. PW.1 denied the suggestion that the accused did not commit theft of his money.

9. The evidence of PW.2 is that he knows both the complainant and the accused. On the day of the incident when the complainant was watching snake game, the accused committed theft of his money. In the cross examination, PW.2 deposed that he did not see the occurrence and he heard about the incident from the complainant. PW.2 has no personal knowledge about the case.
10. The evidence of PW.3 is that he knows both the complainant and the accused. On the day of the incident when the complainant was watching snack game, the accused committed theft of his money. In the cross examination, PW.3 deposed that he did not see the occurrence and he heard about the incident from the complainant. PW.3 has no personal knowledge about the case.
11. The evidence of PW.4 is that he does not know the complainant. On the day of the occurrence, the accused was caught by the public to be a thief. PW.4 was on duty in the market at that time. The accused was taken to Karigaon police out post and O.C. was informed about the incident. In the cross examination, PW.4 deposed that he does not know what article was stolen by the accused.
12. The evidence of PW.5 is that on 24.12.2016, One Drupad Hasda lodged one FIR at Kokrajhar P.S.. After registration of the case, the then O/C endorsed the case to PW.5 for investigation. PW.5 visited the P.O., recorded the statement of the witnesses and drew the sketch map of the P.O.. After completion of investigation, PW.5 filed C.S. in this case. PW.5 identified the C.S. as Ext.1 and his signature as Ext.1(1).

In the cross examination, PW.1 deposed that he could not seize the cash amount of the complainant which the accused tried to take away as the complainant already spent the money in the market. The accused was caught by the public including the complainant. PW.5 denied the

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suggestion that he did not conduct the investigation properly and filed CS without any evidence.

13. From the above discussion of evidence, I have found that as per the evidence of PW.1, the accused was caught red handed when he tried to steal away money from the pocket of PW.1. PW.2 & PW.3 corroborated the evidence of PW.1 by stating that the accused committed theft of the money of the complainant/PW.1 when he was watching snake game. Although, PW.2 & PW.3 did not see the occurrence, but I am of the view that their evidence is relevant in this case as they heard about the incident from the complainant himself and the incident took place in the market. PW.4 also corroborated the evidence of PW.1 regarding the fact that the accused was caught by public in the market and he was handed over to police.
14. PW.5 being the I.O. also corroborated the evidence of PW.1 by stating that the accused was caught by public in the market when he tried to take away money from the complainant.
15. On perusal of the FIR and the evidence of its maker i.e. PW.1, I have found corroboration between the contents of the FIR and the evidence of PW.1 who lodged the FIR.
16. From the above discussion, I am of the view that the prosecution has proved by the evidence on record that the accused attempted to commit theft of money from the complainant on the day of occurrence. Hence, I hold the point for determination accordingly.
17. In the result, I find the accused guilty u/s. 379/511 of IPC and I convict him u/s. 379/511 of IPC.
18. I have considered the provision of Probation of Offenders, but considering the nature of the offence, I am not inclined to invoke the proviso u/s. 360 of Cr.P.C..
19. I have heard the convict as to the sentence to be passed against him. The convict has stated that he is a very poor person and if he is again sent to jail his entire family will suffer as he is the sole earning member in his family.
20. Considering all the aspects of the case and hearing the convict, I sentence the convict to undergo imprisonment (S.I.) for the period

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already undergone in hajot as UTP u/s. 379/511 of IPC. The period already undergone in hajot shall set of against the period of sentence.
21. Let a free copy of judgment be furnished to the convict.

Given under my hand and seal of this court on the 17th day of January/2018.

(A.K. Baruah)
Chief Judicial Magistrate,
Kokrajhar::ASSAM

APPENDIX**Prosecution witness:**

PW-1: Sri Drubat Hasda.

PW-2: Sri Mickel Mardi.

PW-3: Sri Nagen Mardi.

PW-4: Sri Amulya Ch. Brahma.

PW-5: Mr. Jitendra Singh (I.O.).

Documents exhibited by prosecution side:

Ext-1: Charge Sheet

Defence witness:

None

(Mr. A.K.Baruah)
Chief Judicial Magistrate
Kokrajhar.