

In the Court of Sub-Divisional Judicial Magistrate (S), Kokrajhar

G.R. Caseno. 1791/12
u/s-380, 427 I.P.C.

State
v.
Motiur Hussain ----- Accused

Present- P. A. Choudhury.
Sub-Divisional Judicial Magistrate (S),
Kokrajhar.

Advocates appeared:

A.P.P. -----For the State
Mr. A. G. Sk -----For the accused.

Evidence recorded on --- 13-10-2014
Argument heard on----- 13-10-2014
Judgment delivered on— 13-10-2014

J U D G M E N T

1. The Prosecution case in brief is that on 21-8-2012, one Ambrity Basumatary lodged an FIR before the officer in charge Kokrajhar Police Station alleging inter alia that on 25-7-2012 at about 3-30 pm, some miscreants headed by the accused caused damage to his house and also committed theft of certain articles from his house. The miscreants were armed with deadly weapons like axes, spears, guns etc..
2. On receipt of FIR, Kokrajhar P.S. Case No. 1211/12 u/s-147/148/149/454/380 IPC was registered and investigated into. On completion of investigation, investigating officer of the case submitted charge-sheet against the accused person u/s-147/148/149/454/380/427 IPC.
3. In pursuance of court process, summons was issued to accused person. The accused appeared before the court and was allowed to go on bail. Copy was furnished to him and particulars of offences u/s-147/148/149/454/380/427 IPC read over and explained to him to which he pleaded not guilty and claimed to be tried. Prosecution side examined one PW. Examination of the accused u/s-313 CrPC was dispensed with as no incriminating material came out against him during evidence.
4. I have gone through the evidence carefully, perused the case record and heard the argument of both sides.

Points for determination:

5.

- (1) Whether on 25-7-2012, the accused committed theft in the dwelling house of the complainant?
- (2) Whether on 25-7-2012, the accused caused mischief and damage to the property belonging to complainant?

Discussion, decision and reason therefore:

1. PW1 Ambrit Basumatary i.e. the complainant of this case stated in his evidence that on the date of occurrence at about 3-30 pm, somebody set his house ablaze. Out of suspicion, he lodged a complaint against the accused Motiur Hussain. Prosecution exhibited the ejahar as Ext-1 and the signature of complainant as Ext-1(1). In his cross-examination, PW1 admitted that later he came to know that the accused neither caused damage to his house nor committed any theft of his articles.
2. Thus it is quite clear that though the accused person was implicated in the case for the offences u/s-380/427 IPC but from the evidence of PW, who is also the complainant as well as victim of this case, no materials of offence u/s-380/427 IPC could be found against the accused person. PW1 clearly stated that he lodged the complaint against the accused out of suspicion only. Thus no offence u/s-380/427 IPC could be proved against the accused person. As such the accused is acquitted of all the charges and set at liberty. Bail-bonds stand cancelled, surety is discharged.

Judgment is pronounced in the open court.

Given under my hand and seal of this court on this 13th day of October 2014.

P.A.Choudhury
Sub-Divisional Judicial Magistrate (S), Kokrajhar

APPENDIX

List of witnesses-

Prosecution Witnesses:

1. PW-1 -----Sri Ambricit Basumatary

List of Exhibits-

1. Ext-1- Ejahar
2. Ext-1(1)- Signature of complainant

P.A.Choudhury
Sub-Divisional Judicial Magistrate (S), Kokrajhar