

In the Court of the Addl.Chief Judicial Magistrate ::::::::::;Dhubri

Present :Smt.T.Hussain

Addl.Chief Judicial Magistrate

Dhubri

GR case no.287/09

u/s 411 IPC

State

Vs

Eusuf Ali

Advocates appeared :

For the prosecution: Mr.S Ahmed Asstt.P.P

For the Defence :Mr.G.Ahmed

Evidence recorded on :29.10.2014

:22.01.2015

Argument heard on :16.05.2015

Judgment delivered on :16.05.2015

#### Judgment

1.The prosecution case in a nutshell is that on 18.02.2009,Sri Sadananda Kalita ,A.S.I Halakura Police out post lodged an ejahar with the O/C Golokganj Police Station stating to the effect that in that evening around 6.40 PM while checking a bus under registration no AS -17/3942 seven bags containing scrap Irons ,suspected to be stolen ,were recovered from the accused .

2. Upon receipt of the ejahar ,Golokganj PS case no.81/09 was registered ,investigated in to and finally charge sheet was submitted against the accused person u/s 379/411 IPC

3. On his making appearance for facing the trial ,copies were furnished to the accused .Having gone through the relevant documents as well as the submissions of the Ld counsel for the parties on the point of charge

,charges u/s 411 IPC was framed against the accused .On being explained and read over the accused pleaded not guilty to the charge and claimed to be tried.

4. During the course of the trial the prosecution examined 2 witnesses .As there was no incriminating evidence against the accused ,his examination u/s 313 of Cr.p.C was dispensed with .

Whether the accused on 18.02.09 at about 6.40 PM had in possession of some scrap irons in the bus under registration no AS 17/3942 (as found on checking of that bus )knowing those scrap irons to have been stolen articles and thereby committed the offence punishable u/s411 IPC?

6. Decision and reasons thereof:

I have heard the arguments advanced by the Ld counsel for the parties and perused the materials available in the case record. Let us now scrutinize the evidence on record for arriving at just decision.

Pw1 Sri Sadananda Kalita is the Informant .Pw1 has stated in his deposition to the effect that at that relevant time ,he was posted at Halakura Police outpost as ASI.He does not know the accused .At about 6.30 PM while they were checking a bus carrying passenger ,found a bag containing a water Pump .Pw1 handed over the said pump and the person in whose possession it was found ,to the I/C of the Police Out Post.And at the instruction of the i/C he lodged the ejahar.Ext-1 is the ejahar and Ext-1(1) is his signature.

In his cross examination Pw1 has stated that only on suspicion ,he took the person to the police out post .He did not have any information about any stolen article. He has further stated that while checking the bus the passengers were made to get down from it .

Pw2 Sri Rantan Kumar Mahanta ,a seizure witness ,has testified to the effect that he does not know the accused.About four /five years back one afternoon he saw on the road that from the boot of a bus few bags were being taken down by police .Police opened the bags and there were some parts of water pump in those bags.Police seized those articles by

preparing seizure list and took his signature in the seizure list .Ext-2 is the seizure list and Ext-2(1) is his signature .

In his cross examination Pw1 has made it clear that he does not know the contents of the seizure list.

To prove the charge of committing offence of dishonestly receiving stolen property punishable u/s 411 IPC ,first of all , in this case prosecution has to prove that the seized materials were stolen properties . But in his cross examination Pw1 has made it clear that merely on suspicion he took the person to the police out post .He did not have any information about any stolen article. Now from the evidence of Pw1 and Pw2 it is seen that there is nothing in their evidence to prove that the parts of pump which were found from the bus and seized were stolen. There is no evidence on record to link the accused with any stolen property.

That being the position ,it is found and held that the charge framed against the accused person has not been proved.

7. In the result the accused Yusuf Ali is acquitted of the charge u/s 411 IPC and set at liberty forth with.

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

Given under my hand and seal of the court on this 16<sup>th</sup> May day of 2015.

(T.Hussain)

Addl.C.J.M Dhubri

Dictated & corrected by me

Appendix:

Witnesses examined by the prosecution:

Pw1.....Sri Sadananda Kalita ,Informant

Pw2.....Ratan Kumar Mahanta

Documents Exhibited by the Prosecution :

Ext-1.....ejahar

Ext-2.....Seizure list