

IN THE COURT OF THE SESSIONS JUDGE :::::::::: BONGAIGAON

Sessions Case No. 78(J)/2011.

U/S 395/397 IPC

State

Vs.

Md. Nur Islam Accused.

**PRESENT : Smt. M. Nandi,
Sessions Judge,
Bongaigaon.**

**ADVOCATES APPEARED : Sri A. K. Nath, Public Prosecutor
for the State.**

*Sri G. Biswas, Advocate
for the accused.*

Date of Argument : 23.04.2013.

Date of Judgment : 23.04.2013.

23/4.
SESSIONS JUDGE
BONGAIGAON.

JUDGMENT AND ORDER

1. The prosecution case, in brief, is that the informant Sri Siben Ray lodged an ejahar before the O/C, Jogighopa Police Station stating inter-alia that on 08.05.1992 at about 1.15 AM at night, while he was sleeping in his house along with his family, four unknown miscreants entered into his house by breaking the door and assaulted him and his wife Anita Ray causing injury on their person and took away cash of Rs. 3,500/- and golden ear ring of his wife and one HMT watch. The total price of articles is Rs. 6,350/-.

2. On receipt of the ejahar, police registered a case and after completion of investigation submitted charge sheet against the accused Nur Islam, Asmat Ali, Safiur Hoque and Akbar Ali U/S 395/397 IPC. Other two accused Jagadish Mandal and Safiur have been shown as absconder in the charge-sheet. Except the accused Nur Islam, the other accused persons cannot be sent up for trial. The case against accused Safiur Hoque, Akbar Ali, Jagadish and Safiur was filed. Accused Asmat Ali died during the trial and the case against him was filed. As the offence U/S 395/397 IPC are exclusively

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triable by the Court of Sessions, hence the case is committed to this Court. During trial, the accused put his appearance before the Court and he was enlarged on bail. Charge was framed U/S 395/397 IPC which was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

3. In this case, prosecution examined seven witnesses and the defence examined none. The plea of the defence is the plea of denial.

4. **Points for determination**

1. *Whether the accused person along with other miscreants on 08.05.1992 at about 12/1 A.M. at night at Pallital village under Jogighopa Police Station committed dacoity in the house of the complainant and thereby committed an offence U/S 395 IPC ?*
2. *Whether the accused person on the same date, time and place at the time of committing such dacoity was armed with deadly weapon such as iron rod, bamboo lathi etc. and thereby committed an offence U/S 397 IPC ?*

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SESSIONS JUDGE
KOKRAJHAR

DECISION AND REASONS THEREOF

5. To arrive at just decision of the case, let me consider the evidence of the witnesses.

6. PW 1 is the informant Siben Ray. He deposed in his evidence that the occurrence took place about 20 years back. On that day he was in his house at Pallital village under Jagighopa Police Station. At that time, he was serving as Police constable at Kokrajhar. On the date of occurrence at about 12 at night, about 6/7 miscreants entered into his house by breaking the door. He and his wife Anita were sleeping in one room. In another room his elder son Manoj Ray was sleeping. His younger son Jayanta Ray was sleeping along with him. His daughter Binapani and Mina were sleeping along with his wife. At first, the miscreants broke the door of the room where he was sleeping. At the time of breaking the door, he woke up, as

