

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,:::::: BONGAIGAON**

**GR. NO.- 294/2014**

**U/S- 420 I.P.C.**

STATE

-VS.-

Sri Samir Dutta .....Accused

**Present:-**

Sri B. Sutradhar, A.J.S.

Chief Judicial Magistrate,

Bongaigaon

**Appeared:-**

For the State: Smt. R. Choudhury, Addl. P.P.

For the accused: Mr. S. Sarkar Ld. Advocate.

Date of evidence: 10-9-15, 12-10-15, 9-11-15, 9-12-15 & 11-2-16.

Date of argument: 8-3-16

Date of judgment: 11-3-16

**JUDGEMENT**

1. The brief case of the prosecution is that on 13-4-14 the informant Smt. Jaya Sarkar lodged an ejahar before the O/C Bongaigaon PS through court alleging she is the wife of accused and their marriage was solemnized on 5-7-11. After marriage both the parties were residing at the house of the accused. After three months the accused person demanded Rs. 5,00,000/- and started torture. The case was filed. The accused took the informant at Siliguri and stay for one day and later on they stayed at Darjeeling for three days in a hotel. During that period the accused took some naked photograph and also recorded the same. The accused keep the informant at Basugaon in a rented house and create pressure to withdraw the case.

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After withdrawn of the case, the accused took a rental house at Bongaigaon. The accused threaten the informant that if she filed any new case he will display the whole naked photograph and recording in internet. The accused person blackmail the informant and cheated her by said naked photograph and the recording.

Hence the case.

2. On receipt of the ejahar O/C Bongaigaon P.S registered a case vide no. 201/14 and the matter was duly investigated into

3. On completion of the investigation I/O submitted charge sheet against the accused person. In due course the accused person appeared before the court and he was allowed to go on bail. Copies were furnished and the charge U/S 420 IPC was framed. The particulars of the charge was read over and explained to the accused person and to which he pleaded not guilty and claimed to be tried. During the course of evidence the prosecution side examined as many as eight witnesses including I/O. The accused person was examined U/S. 313 Cr.P.C. Defence case is total denial and they examined none. Heard the argument of both sides.

**Points for determination are:**

4. Whether the accused person cheated the informant dishonestly by inducing her as alleged in the ejahar?

**Decision and reasons thereof:**

5. The prosecution side examined Smt. Jaya Sarkar as P.W.1, Sri Jiban Krishna Sarkar as P.W.2, Smt. Malati Seal as P.W.3, Sri Samir Das as P.W.4, Sri Tapash Mukharjee as P.W.5, Sri Mukut Ranjan Dev as P.W.6, Sri Amal Sarkar as P.W.7 and the I/O Sri Ganesh Sarkar as P.W.8

6. The P.W.1 in her evidence deposed that she got married with the accused on 5-7-11 and started her conjugal life. After three months, the accused person started ill behavior and demanded Rs. 5,00,000/- from her father to purchase land. The accused started assaulting her. She informed her parent's and they approach the accused. The accused told that she is a mad lady and he is not willing to continue conjugal life with her. The accused told her to bring money from her father's house and she was sent to her parent's house. She file a case U/S 498 A I.P.C. and the accused taken her to Darjeeling with a say to compromise the matter.

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The accused taken some naked photograph. The accused started blackmailing that he will show the photograph to other people. The accused also shown the naked photograph to some person.

In cross-examination she deposed that she cannot say the date and month of demand of Rs. 5,00,000/-. She has not filed any case at Siliguri or Darjeeling in respect of naked photograph. She has not given the mobile number to police by which the naked photographs were taken. She has not mentioned any occurrence of Basugaon. No naked photograph was given to police.

7. The P.W.2 deposed that informant is his daughter who got married with accused on 5-7-11. After three months of the marriage, the accused demanded money to purchase land. The accused person started torture in respect of demand. The case was lodged at Bongaigaon which was compromised in mediation centre of Dhubri. His daughter was taken to Siliguri and Darjeeling and later on accused taken rented house at Basugaon. The accused create pressure to withdraw the case. The accused told his daughter to left his house else he will show the naked photograph to people and later on her daughter was taken to his house.

In cross-examination he deposed that he has recovered the articles of marriage by filing case.

8. The P.W.3 deposed that about 1 year back marriage between the informant and the accused was solemnized and later on the informant left the house of her husband. She did not know the reason of the same. She did not know anything about the case.

In cross-examination she deposed that she has not seen any occurrence.

9. The P.W.4 deposed that after one year of the marriage quarrel raised between the parties and both of them were living separately. He did not know the reason of the quarrel.

In cross-examination he deposed that he has not seen any quarrel in between the parties.

10. The P.W.5 deposed that he heard about some problem in the family of the informant and the accused but he did not know anything about the occurrence.

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11. The P.W.6 deposed that he is having a house at Basugaon and the accused took his house on rent on 4-2-14. The accused was in his house till 10-3-14. Accused left his house without saying anything. He did not know about the occurrence.

12. The P.W.7 deposed that informant is his niece who got married with the accused on 5-7-11. They started conjugal life at Bongaigaon. On 18-7-13 he got information that the accused assaulted the informant. They went to police station to rescued the informant and file FIR. The informant was rescued. Later on matter was compromised and they went to Darjeeling where accused person taken some naked photograph. Later on they were residing at Bongaigaon. The accused left the informant at Basugaon and he was living at Bongaigaon. They brought the informant to Sapatgram. The accused threatened to withdraw the case of 498A IPC else he threatened to given the naked photograph in internet.

In cross-examination he deposed that he is working in police department since last 26 years. He also stated that he did not know that in the house of whom at Basugaon they stayed.

13. The P.W.8 I/O deposed that on 14-4-14 he was attached with North Bongaigaon P.P. O/C entrusted him for investigation of the case. He visited the place of occurrence and recorded the statements of the witnesses. On completion of investigation he submitted charge-sheet against the accused person.

In cross-examination he deposed that has not investigated at Basugaon or Siliguri. The informant has not filed any case at Sapatgram. He has not seized any obscene photograph from the informant.

14. Now, on going through the above evidence on record it appears that P.W.1 is the informant of the case and P.W.2 is her father and P.W.7 is her uncle. The P.W.3, P.W.4, P.W.5 and P.W.6 are the independent witnesses of the case. The P.W.1 alleged that accused person demanded dowry, a case was lodged and accused by taking some naked photograph at Darjeeling tried to compel her to withdraw the case. The said P.W.1 in cross-examination clearly stated that she has not filed any case at Siliguri or Darjeeling. It also appears that after coming from Darjeeling they were residing at Basugaon. The P.W.2 is the father of P.W.1 who also stated in the same tune.

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The P.W.7 uncle of the P.W.1 also stated that accused person taken some naked photograph and tried to compel the informant to withdraw the case but it appears from the evidence of P.W.2 that the case was compromised at Dhubri Mediation Centre as the matter was referred by Hon'ble Gauhati High Court. All the other independent witnesses have not supported the prosecution case. The P.W.3, P.W.4, P.W.5 and P.W.6 are totally silent in respect of the alleged occurrence. The P.W.6 is the very vital witness who was the owner of the rented house in which the P.W.1 used to reside after returning from Darjeeling but he flatly denied that he did not know anything about the occurrence. The non-supporting of the evidence by independent witness has created genuine doubt in the prosecution case.

15. The P.W.1, P.W.2 and P.W.7 are relatives and they are closely related with each others. Their evidence cannot be taken into consideration solely to held the accused person guilty because other witnesses are totally silent in respect of the alleged occurrence. It is also clear from the evidence of I/O that neither any naked photograph was seized by the police nor he has visited Siliguri and Darjeeling etc where the actual photograph was taken as alleged. The entire evidence does not fulfills the ingredients of U/S 420 IPC that the accused person has committed the alleged offence.

16. In view of above, I am of the opinion that the prosecution side has failed to prove the case. In result the accused person is acquitted from the charge U/S 420 I.P.C and set him at liberty. The bail bond shall remain in force till next six months.

17. The seized articles be given to its owner in due course.

18. The case is disposed of on contest.

Given under my hand and seal of this court on this **11th day of March, 2016**

**Chief Judicial Magistrate**  
**Bongaigaon.**

