

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE :::::: BONGAIGAON.

GR CASE No. 361/2009.

U/S. 392 IPC.

State of Assam

-Vs-

Sri Sudama Yadav.

*Present: Sri A. U. Ahmed, AJS
Chief Judicial Magistrate,
Bongaigaon.*

Name of the informant:

*Smt. Usha Kumari,
D/o Arbind Kumar,
Vill-Mount View Colony, Rly Qtr No. R-157/A.
PS & Dist. Bongaigaon.*

Advocates appeared:

For the Prosecution: *Mr. T. Bhowmick, Assistant PP.*
For the Defence: *Mr. B. K. Mahato.*

Argument heard on: **19.07.2013.**

Judgment pronounced and delivered on: **19.07.2013.**

J U D G M E N T

1. The prosecution case in brief is that, on 08.07.2009 the informant lodged a written ejahar with the Bongaigaon PS stating inter-alia that on the same day at about 3:20 PM while she was coming from computer class on the road towards Dangtola Tinali Bus-stand at Mount View Colony, two unknown youths snatched away her golden chain from neck. On her shouting nearby people came to the PO and caught one person named Swapan Acahrjee

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though the rest youth fled away. On receipt of the written ejahar, Bongaigaon PS registered a criminal case under section 392 IPC and started investigation. On completion of investigation charge-sheet submitted against the accused persons Swapan Acharjee and the aforesaid accused person. During the course of trial, accused Swapan Acharjee was declared absconder and the case was filed against him. Hence prosecution case has come up for the accused person Sudama Yadav.

2. On completion of the appearance of the accused person, copy was supplied to him. Having very carefully gone through the submissions of both sides as well as case diary I found a prima-facie materials under section 392 IPC and as such framed charge accordingly against him. The aforesaid charge was read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

3. During trial prosecution has examined as many as 5(five) prosecution witnesses in support of its case. The examination of the accused person U/S.313 CrPC is dispensed with. Defence has examined none. The plea of defence is of total denial.

4. -: **POINT FOR DETERMINATION** :-

(a) Whether the accused person committed the offence U/S.392 IPC?

5. -: **DECISION AND REASONS THEREOF**:-

I have very carefully gone through the arguments duly advanced by the Ld. Lawyers of both sides as well as evidence on record. Now, let us see the evidence on record.

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- 3.
6. PW1 is Arbind Kumar who is the seizure witness. His evidence shows that police seized one golden chain from the possession of the accused Swapan Acharjee which was snatches away from the informant vide Ext1 and Ext1(1) is his signature. He has stated in his cross-examination that he has not seen the occurrence.
7. PW2 is Surojit Bose who has stated in his testimony that the occurrence took place in the year 2009 at 3:00 PM while he was going to a field situated nearby the PO. At that time on the road he found the accused Swapan Acharjee being kept by a gathering of the people on the road and came to know that the said accused person took away a golden chain from the neck of the informant.
8. PW3 is Bappa Sarkar and PW4 is Trishul Shah who have stated in their testimony that the occurrence took place last year in the month of July at 1/2:00 PM. Hearing shouting they came to the PO and found the accused Swapan Acharjee being kept by the people and came to know that said accused person Swapan Acharjee made attempt to take away a golden chain from the neck of the informant.
9. In this case the informant is the most vital witness. The informant marked as PW5 has stated in her testimony that the occurrence took place about 2/3 years back at 2/3:00 PM while she was coming home back on foot from New Bongaigaon auto-rickshaw stand, at that time suddenly a boy coming from her front side took away her golden chain from her neck and started fleeing away running. On hearing her shouting two boys chased the said

boy and apprehended him with her golden chain. Thereafter, the said

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two boys recovered her golden chain from that boy and handed over the same to her. The accused Sudama Yadav was not the said boy. Thereafter, she lodged a written ejahar with the New Bongaigaon PP. Ext2 is her ejahar and Ext2(1) is her signature. Apart from this, she made it more clear stating in her cross-examination that she did not find the accused person present in the PO.

10. From the discussion made above it is found that there is no incriminating materials against the accused person who is facing trial. *In the result, I find that the prosecution has miserably failed to prove its case against the accused person Sudama Yadav. Hence, he is hereby honorably acquitted from the charge brought against him and let him be set at liberty forthwith. His bail bond stands cancelled. Accordingly, this case is disposed of on contest.*
11. The Judgment is pronounced and delivered in the open Court on this 19th July, 2013 under my hand and seal of this Court.

(Sri A.U. Ahmed)

**Chief Judicial Magistrate,
BONGAIGAON.**

Dictated & corrected by me.....

(Sri A. U. Ahmed)

Chief Judicial Magistrate
BONGAIGAON.
