

**THE COURT OF JUDICIAL MAGISTRATE  
FIRST CLASS: NORTH SALMARA,  
ABHAYAPURI**

GR CASE NO: 1304/2018

U/S: 295/448/427 IPC

State of Assam

.....

Prosecution

-V-

Saddam Sikdar

S/o Khalek Sikdar

Vill Sutin pathar

P.S Howli

Dist Barpeta, Assam

**Present:** Smt. Juri Dutta, LL.M, AJS,  
Judicial Magistrate First Class,  
N. Salmara, Abhayapuri, Assam.

Ld Advocate for the Prosecution.....S. Barman.

Ld Asstt.P.P N.Salmara.

Ld Advocate for the Accused person.....Rofizuddin


Ld. Advocate. N. Salmara.

**PARTICULARS OF THE CASE :**

Date of Evidences recorded : 07/03/19, 18/03/19

Date of Argument : 02/04/19

Date of Delivery of Judgment : 05/04/19

  
Judicial Magistrate 1st Class,  
North Salmara, Abhayapuri

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**J U D G M E N T**

1. Prosecution case in brief is that on 18.12.2018, at about 04:00 AM, accused person trespassed into the Kali Mandir, which is adjacent to Chalantapara Haripani Bridge, by breaking its grill lock and broke idol and destroyed the articles of the temple by setting fire on it.


2. After receiving the ejahar police registered the case as Jogighopa P.S. Case No. 477/18 dated 18/12/18. The I.O has arrested the accused person and he was remanded to the judicial custody. After completion of the investigation submitted the charge sheet u/s 448/295/295(A)427 of IPC.

3. When the accused person produced before the court from judicial custody, relevant copies were furnished to the accused person. Offences u/s 295/448/427 I.P.C are read over and explained to the accused person. The accused person is examined u/s 313 CrPC.

**4. POINTS FOR DETERMINATION:**

(i) Whether the accused person on 18.12.2018, at about 04:00 AM, broke the idol of Maa Kali and destroyed the articles of the temple by setting fire on it with intent to insult the religion of a class of persons and there by liable u/s 295 I.P.C?

(ii) Whether the accused person, committed trespass into the Kali Mandir, adjacent to Chalantapara Haripani Bridge, by breaking its grill lock with intend to insult the religion of a class of persons and there by liable u/s 448 I.P.C ?

  
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(vi) Whether the accused person, caused mischief by damaging the articles of the temple and ultimately caused mischief of Rs. 50/- or more and thereby liable u/s 427 I.P.C?



**5. DECISION AND REASONS FOR DECISION:**


6. To prove the case prosecution has examined five witnesses:-

PW:1 Tiken Kalita, PW:2 Kamal Das, PW: 3 Dukhiram Das, PW:4 Deben Das and PW:5 Abinash Hazarika.

7. Heard argument of both sides.

8. PW:1 in his evidence stated that he is the informant and he knows accused person. Incident took place on 12.12.2018. He is the President of Chalantapara Haripani Kali Mandir. On the date of incident at about 04:30 A.M, he came to know from local residents that by breaking lock of the temple, Saddam Siddik entered into the temple and broke Maa Kali idol and burnt the same. On receiving information, he went to the place of incident and saw that Saddam came forward with a "trisul" to assault local residents. He informed the O.C Jogighopa P.S over telephone, he came and arrested Saddam. Ext. 1 is the ejahar and Ext. 1(1) is his signature. In his cross he stated that his house is situated about 50 meters away from the temple.

9. PW:2 stated in his evidence that he knows both the informant and accused person. Incident took place about 04:30 A.M. After hearing hue & cry inside the Kali Mandir, he went to the place of occurrence. Saddam Hussain set fire in the temple. He was carrying "trisul" in his hand and tried to assault them. Thereafter on being informed, police came and arrested him. He in his cross

  
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stated that at the time of occurrence, he was present in his house. He has not seen who broke the idol. After 10/20 minutes police came. Police inquired him about the incident.

**10.** PW:3 stated in his evidence that he knows the informant as well as the accused person. On 18.12.2018, at about 04:30 A.M, he was present in his house situated nearby temple. On arriving, he saw broken idol and articles of the temple lying outside the temple and Saddam Siddik was present there and he set fire.

**11.** PW:4 stated in his evidence that he knows both the informant and accused person. About two and a half years ago at about 04:00 AM, on hearing hue & cry in the temple, he went to the temple and saw fire inside the temple, broken idol of Maa Kali, broken lock of the temple and accused Saddam was present inside the temple. He saw "trisul" in the hand of accused person. He in his cross stated that he has not seen who broke the idol and set fire in the temple. Police not inquired him.

**12.** PW:5 stated in his evidence that he knows both the informant and accused person. About 6 months ago, 2018 in the morning, on hearing hue & cry he went to the temple and saw one person inside the temple and fire in the grill of the temple. Police came and brought the said person. He saw broken Maa Kali idol and "trisul" in the hand of said person. He in his cross stated that the temple is situated in the midst of fish market. He has not seen who broke the idol of the temple.

**13.** Perused the evidences of the witnesses.

  
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**14.** From the perusal of the evidences, it is seen that all the witnesses supported and corroborated each other versions by testifying that they saw the accused person inside the temple carrying "trisul" in his hand. All the witnesses saw accused person inside the temple. Presence of the accused person inside the temple and breaking of lock of the grill of the temple, it is clear that the accused person entered into the temple by breaking the grill. Hence the ingredients of Sec. 448 IPC is established against the accused person. As the witnesses have not seen who broke the idol and other articles of the temple, but as the accused was inside the temple and "trisul" which is an article of the idol, which he was holding, it means he was destroying the articles of the temple by entering into the temple along with the idol. As the temple is a place of worship and destroying it, fulfilled the ingredients of Sec. 295 IPC. As he was inside the temple, normally it is not possible to enter into the temple without breaking the grill, hence for destroying the grill and other articles of the temple for which he caused mischief u/s 427 IPC. Hence the ingredients of Sec. 427 IPC is also establish against the accused person. Hence, accused person is convicted u/s 295/448/427IPC.

**15.** Taking into consideration all the above observations and gravity and nature of the offences, I am not willing to release the accused person on probation of good conduct and due admonition as per provision of Sec.3/4 of Probation of Offenders Act.

**16.** Heard accused person on the point of sentence hearing. The convict person has prayed for leniency.

*J*  
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Judicial Magistrate 1st Class,  
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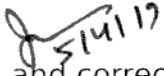
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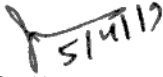
**SENTENCE**

Considering the nature and circumstances of the case and also considering the gravity of the offences, sentenced the convict person Simple Imprisonment of 1 (one) month u/s 448 IPC and Simple Imprisonment of 1 (one) month u/s 295 IPC and Simple Imprisonment of 1 (one) month u/s 427 IPC. Period of detention already under gone by the accused person in custody during the trial shall be set off.

The judgment is delivered on this 05<sup>th</sup> day of April 2019 under my hand and seal in the open court in presence of the accused person and the Ld A.P.P.

Let a free copy of judgment be furnished to the accused person.

  
Dictated and corrected by me.  
Judicial Magistrate 1st Class,  
North Salmara, Abhayapuri

  
Juri Dutta  
Judicial Magistrate First Class,  
Abhayapuri  
Judicial Magistrate 1st Class,  
North Salmara, Abhayapuri

**APPENDIX**

**Prosecution Side Exhibits:**

Ext. 1: Ejahar

Ext. 1(i) Signature of informant.

**Witnesses:**

PW1: Tiken Kalita

PW2: Kamal Das

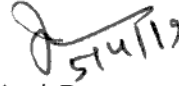
PW3: Dukhiram Das

PW4: Deben Das

PW5: Abinash Hazarika

**Defence Side:** Exhibits: Nil

Witness :Nil



Juri Dutta

Judicial Magistrate First Class,  
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