

**BEFORE THE JUVENILE JUSTICE BOARD, BONGAIGAION**

**PRESENT: S. HANDIQUE, PRINCIPAL MAGISTRATE, JJB,  
BONGAIGAON**

**MEMBERS:**

**Mr. D. C. Basak  
Mrs. R. Choudhury**

**JJB Case no. 39/13  
(G.R. 421/12)  
(u/s 380 IPC)**

**State**

**v.**

- 1. Faridul Islam**
- 2. Asraful Islam**

**For prosecution: Mr. T. Bhowmik, APP**

**For defence: Mr. S. Alam**

**Evidence recorded on: 8-7-14, 18-9-14, 21-10-14**

**Juvenile examined u/s 313 Cr. P.C on: 21-10-14**

**Arguments heard on: 21-10-14**

**Judgment delivered on: 21-10-14**

**JUDGMENT**

1. The prosecution was set into motion in this case on the basis of an FIR lodged by Md. Sirajul Hoque, s/o Rahim Bux, r/o Moinbhuri under Kalgachia P.S., Barpeta on 19-7-12. The informant alleged in the FIR that on 18-7-12 at night some unidentified persons stole his goods from his motor garage situated at Kushbari Bazar. He enclosed a list of stolen items in his FIR. The FIR was registered as Mererchar P.S. Case no. 77/12 and after investigation the charge sheet was filed against Mostafizur Rahman, Faridul Islam ( juvenile), Asraful Islam (Juvenile) and Rajab Ali u/s 380 IPC. As the police could not apprehend accused Rajab Ali, the charge sheet has been filed showing him to be an absconder.
2. After filing of the charge sheet, the case was forwarded to this Board. The juveniles were then summoned and on their appearance, necessary copies were furnished to them. The particulars of offence

- u/s 380 IPC were explained to the juvenile to which they pleaded not guilty and claimed trial.
3. During enquiry seven witnesses were examined including the investigating officer. The juveniles were examined u/s 313 Cr. P.C. wherein they denied the incriminating materials put to them. No defence evidence is adduced. Heard arguments from both the sides.
  4. The following points for determination have been framed:

### **POINTS FOR DETERMINATION:**

1. *Whether the juveniles in conflict with law with dishonest intention moved the goods belonging to the informant's motor garage on 18-7-12 at night out of his possession and thereby committed an offence punishable u/s 380 IPC?*

### **DISCUSSIONS, DECISIONS AND REASONS THEREOF**

#### **DECISION ON POINT NO. 1**

5. The allegation against the juveniles in conflict with law is that they stole certain goods, like mobil cans, seat covers, looking glass, polish, tyres etc from the garage of the informant. Let us examine the evidence on record.
6. **PW1 Joinal Abedin** deposed that he does not know anything about the alleged incident, nor does he know the informant and the juveniles.
7. **PW2 Nur Rahman** knows both the parties. He heard about the alleged theft in the garage of the informant. He testified that few mobil cans were recovered after 2/3 days from a gunny bag near a bamboo bush and two tyres were recovered from a nearby pond. He does not know who stole it.
8. **PW3 Sirajul Hoque** is the complainant. He deposed that tyres, pumps etc were stolen from his garage two years ago. According to him, the police caught one guy named Mustafizur who disclosed the names of the juveniles. He stated that the police recovered certain stolen goods which are still in the police station. He exhibited the ejahar as Ext. 1. During cross examination he testified that the vouchers relating to the stolen goods have not been furnished in this case. He denied that the present juveniles are not involved with the alleged theft.
9. **PW4 Nazrul Islam, PW5 Rafiqul Islam and PW6 Jamaluddin** are only reported witnesses. They only heard about the alleged theft and do not know who were the thieves. **PW7 is S.I. Darbesh Ali Ahmed** who investigated the case. He testified that he visited the place of occurrence, interrogated the witnesses and seized one pump from the house of juvenile named Asrafal on being led by him. He also testified that a gunny bag with 18 cans of mobil and seven plugs were recovered from a bamboo bush near the place of occurrence. He stated that he apprehended Mustafizur Rahman, Faridul Islam and Asrafal Islam in connection with the alleged case of theft but could not apprehend the fourth accused named Rajab Ali. During cross

examination he testified that he did not seize the documents relating to the stocks in complainant's garage prior to the theft. He testified that juvenile Faridul's motor garage is situated just opposite of the complainant's garage. He also testified that he has not mentioned in his case diary as to the type of the show- case from where he made the seizure in Asraful's house. He stated that the owner of the bamboo bush is not mentioned in his case diary, though he stated that it was a road side bush. He testified that there was no document certifying ownership of the goods that he recovered during investigation. He however denied that he has not done the investigation properly and the juveniles are not involved with the alleged crime.

10.Ld. Counsel for the juveniles in conflict with law argued that there is no cogent evidence to link the juveniles with the alleged crime. I have carefully gone through the evidence of PWs. The fact of theft of certain goods from the complainant's garage and subsequent recovery of some of the goods are more or less established. But it is seen that the prosecution has been unsuccessful to link the alleged crime with the juveniles who are facing trial. Although the complainant stated that one of the accused called Mustafizur revealed the names of the juveniles, but the same is not proved. The investigating officer though stated that he seized a stolen pump from the house of juvenile named Asraful, but the said seizure is not proved according to law. According to the I/O the juvenile led him to the discovery during interrogation. But the prosecution has failed to prove the said discovery and seizure as per section 27 of the Indian Evidence Act. Thus it is seen the prosecution has failed to bring home the charge against the juveniles in conflict with law beyond reasonable doubt. Point no. 1 is decided in the negative.

### **ORDER**

11.In view of the above discussions we hold that the offence u/s 380 IPC is not proved against the juvenile and they are acquitted of the case. They are set at liberty forthwith. Their bail bonds stand cancelled. Given under the hand and seal of the Juvenile Justice Board, Bongaigaon on 28-10-14.

**(S. HANDIQUE)**  
**PRINCIPAL MAGISTRATE, JJB,**  
**BONGAIGAON**

**MEMBERS:**  
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