

**ORDER- SHEET FOR MAGISTRATE'S RECORDS**

DISTRICTS:- Bongaigaon

IN THE COURT OF


No. Spl. CR 489/16

of

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of

Versus

Sl. No.	Date	O R D E R	SIGNATURE
	06-12-17	<p>Accused Mohini Singh, Pradip Medhi, Kandak Choudhury, Saben Barman, Anil Medhi, Pitamber Das, Ramjan Ali @ Ramo, Nazrul Ahmed and Kalu Singh are present. PWS are absent. Perused the case record. The case was originally initiated on the basis of information that 360 Kg of white paper roll having marks Hindustan Paper Corporation Limited were missing from the train no. down K K F Special at K M no. 4/6 to 5/6 in between Majgaon-New Bongaigaon Railway Station and same was informed on 18-03-07 to RPF staff. Later on, the said white paper roll were recovered from the house of Dina Ram Roy. At the time of search accused Dina Ram Roy was absent in the house. Later on, Dina Ram Roy surrendered before the Enquiry Officer on 23-07-07 and disclosed the name of his associates i.e. other accused persons. Accused Dina Ram Roy took the name of Ramjan Ali and other additional persons. On the other hand accused Ramjan Ali was arrested and he disclosed the name of Dina Ram Roy and other 12 accused persons to be his associates. Accordingly, Enquiry Officer submitted prosecution report against accused persons Dina Ram Roy, Ramjan Ali, Naba Rabha, Soben Barman A@ Sonen Medhi A@ Tenga, Mohini Singh, Dharani</p>	

Special Railway Magistrate  
Bongaigaon, Assam

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Barman, Kalu Singh, Anil Medhi, Tarun Singha, Pritam Das, Nazrul Ahmed, Panchanan Singha, Pradip Medhi and Kanak Choudhury. As all the accused persons did not appear before the court. My. Ld. Predecessor issued P/A on 30-08-16 against all the accused persons. There after, on 19-09-2016 accused persons Pradip Medhi, Kanak Choudhury, Anil Medhi, Mohini Singh and Soben Barman appeared before the court and they were allow to go on bail.

Later on, 19-09-16 accused persons Pitamber Das, Kalu Singh, Nazrul Ahmed and Ramjan Ahmed appeared before the court and they were allow to go on bail.


Since then all the 9 accused persons Mohini Singh, Pradip Medhi, Kanak Choudhury, Saben Barman, Anil Medhi, Pitamber Das, Ramjan Ali @ Ramo, Nazrul Ahmed and Kalu Singh have been appearing before the court . But till now one PW was examined.

Today, the case is fixed for PWS.

Ld. Railway P.P. submitted that he summoned the independent witnesses namely Suchendra Ch. Ray and Mohendra Ray named in the seizure list in the instant case. However, both the summons could not be served as Executing Officer reported that both the above mentioned witnesses were not found available at the given addresses and same was certified by President V.D.P. Sri. Lipchand Choudhury of Borshangaon village V.D.P. unit.

It is found that the instant case is pending since 2007.

Ld. Railway P.P. submitted that 14 witnesses are listed in the list of witnesses submitted in the prosecution report.

  
Special Railway Magistrate  
Bongaigaon, Assam

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Except one independent P.W. other 13 prosecution witnesses are Railway staff(RPF). Accordingly, on last date the independent witnesses namely Suchendra Ray and Mohendra Roy named as independent witnesses in the seizure list were summoned but they were not found in the addresses given by the E/O.


Ld. Defence Counsel submitted that except the statement of accused Dina Ram Ray and Ramjan Ali there is no material against the other 12 accused persons as to concerned informant in the instant case. Ld. Defence Counsel also submitted that the seized articles were recovered from the house of accused Dina Ram Roy. Moreover, Ld. Defence Counsel submitted that the statement of accused Dina Ram Roy and Ramzan Ali were recorded while in the custody of RPF staff and hence both the accused Dina Ram Roy and Ramjan Ali were forced to put their signature in the statement claimed to be of their.

Ld. Railway P.P. submitted that no witnesses saw the accused persons present in the court committing theft of the seized articles.

Ld. Defence Counsel submitted that nothing was recovered from the possession of the accused persons namely Mohini Singh, Pradip Medhi, Kanak Choudhury, Saben Barman, Anil Medhi, Pitamber Das, Ramjan Ali @ Ramo, Nazrul Ahmed and Kalu Singh.

Ld. Railway P.P. submitted that there is no material available in the record except the statement of the accused persons against the 9 accused persons.

Ld. Defence Counsel submitted that only on

  
Special Railway Magistrate  
Bongaigaon, Assam



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the basis of statement of the accused which were recorded while they were in the custody of the RPF cannot be the sole basis for finding out the guilt of the accused persons.

Ld. Railway P.P. has submitted that on the basis of prosecution report, seizure list, statement of the accused, he is the opinion that prosecution evidence against the 9 accused persons Mohini Singh, Pradip Medhi, Kanak Choudhury, Saben Barman, Anil Medhi, Pitamber Das, Ramjan Ali @ Ramo, Nazrul Ahmed and Kalu Singh may be closed.

Considering the facts and circumstances of the instant case I have gone through Section 245 of Cr.P.C. **which has laid down that when accused shall be discharged.**

**1. If, upon taking all the evidence referred to in section 244, the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.**

**2. Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case it, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.**

Considering the legal provision laid down u/s 245(2) Cr.P.C. and the material available in the record as well the submission of both sides, accused persons Mohini Singh, Pradip Medhi, Kanak Choudhury, Saben Barman, Anil Medhi, Pitamber Das, Ramjan Ali @ Ramo, Nazrul Ahmed and Kalu Singh are discharged from the instant case.



Railway Magistrate  
Assam