

**THE COURT OF CHIEF JUDICIAL MAGISTRATE,
UDALGURI, BTAD, ASSAM**

G.R. CASE NO. 1015 of 2012

**Present: Sri Mridul Kumar Saikia.
Chief Judicial Magistrate
Udalguri, BTAD, Assam.**

STATE

-VS-

SRI DAWHARO BORO

-----Accused.

For the Prosecution : Mr. M. Khaklary, Addl. P.P.

For the Defence : Mr. Mahendra Prasad Rabha, Advocate.

**Date of prosecution evidence : 10/08/2016, 28-09-2016 and
04-11-2016.**

Date of argument & Judgment : 17-03-2020.

U/S- 387 I.P.C.

J U D G M E N T

1. The prosecution case, in brief, is that, the complainant Sri Alakesh Baruah of Tangla PS. lodged an ejahar before the O/C, Tangla Police Station on 21-08-2012 inter-alia stating that on 20-08-2012 at about 11.09 A.M., he received extortion calls from some unknown Mobile No-8011100863, where the caller demanded Rs. 1 Lac and demanding handover the amount by evening of 21 August 2012.
2. On receipt of the ejahar to the effect aforesaid, Tangla PS case no. 67 of 2012 U/S 387 I.P.C. was registered and on completion of investigation the

I/O submitted the charge sheet against the accused Sri Dawharo Boro alleging commission of the offence U/S 387 I.P.C.

3. Cognizance of offence was taken under Section **190 (1)(b)** of the Cr.P.C. The processes were issued for causing appearance of the accused before the Court. Accordingly, the accused appeared before this court to answer the charge levelled against him and then he was furnished with copies of all relevant papers and documents in compliance with the provisions of Sec. 207 Cr.P.C. Finding a prima-facie case for commission of offence U/S 387 I.P.C. the charge U/S 387 I.P.C. was framed, read over and explained to the accused to which the accused pleaded not guilty and claimed to stand trial.
4. The prosecution has examined as many as four (4) Pws in the form of:
 - PW 1 Sri Raben Chandra Deka
 - PW 2 Sri Arjun Limbu
 - PW 3 Sri Alakesh Baruah
 - PW 4 Sri Kusheswar Patangia

The prosecution also exhibited the following document in the form of:

Ext. 1 – Ejahar

5. After recording the prosecution witnesses the accused was examined U/S 313 Cr.P.C. All the incriminating circumstances which appeared in evidence against the accused were put to him for his explanation. The accused denied all the circumstances and pleaded his innocence. Further the accused declined to adduce evidence in defence.
6. I have heard the argument put forward by the learned Addl.P.P. and the learned advocates appearing for the accused. I have also carefully gone through the entire evidence available with the case record.
7. **POINT FOR DETERMINATION OF THE CASE :** To ascertain the guilt of the accused person on the charge levelled against him, the following point is sorted out for the decision:

(I) Whether on 20th day of August, 2012 at about 11.09 AM, the accused had made an extortion call through his mobile no. 8011100863 to the informant by illegally demanding him to pay Rs.1 Lakh(Rupees one lakh) and putting him in fear to extort money ?

DISCUSSION, DECISION AND REASONS THEREOF:

8. To prove the alleged offences against the accused, let us scrutinize the evidence of the prosecution. PW 1 Sri Raben Chandra Deka stated that at the time of occurrence, he was JE at APDCL, Tangla division and he know the informant as his senior officer. He stated that in the year 2012, while he was posted at Tangla APDCL division, Alakesh Baruah had received an extortion call of Rs. One lakh and he had informed him about the extortion call. He further stated that he know that after receiving the extortion call he had intimated the police about the matter.
9. In the cross-examination PW 1 stated that he do not have any personal knowledge about the fact and he was informed by the informant about the occurrence.
10. PW 2 Sri Arjun Limbu stated that the accused was from their village and as a VDP Secretary he had not been informed about any extortion call.
11. PW 3 Sri Alakesh Baruah is the complainant of this case. He has stated that in the year 2012, he was posted at Tangla as SDO, Tangla Electrical Sub-Division as APDCL and in the month of August, 2012 during the office hour, he had received a phone call in his office phone where the caller demanded an amount of rupees one lakh. He immediately filed the ejahar. He proved the ejahar Ext.1 and by identifying her signature Ext.1(1) thereon.
12. In the cross-examination, PW 3 stated that he do not know the accused person and the I/O had not seized the mobile phone.
13. PW 4 Sri Kusheswar Patangia, stated that the occurrence took place in the year 2012 and that time he was working as line man of the Assam State Electricity Board at Tangla. The informant Sri Alakesh Baruah is the SDO,

Tangla Electrical Sub-Division as APDCL. He stated that he used to stay rent in his house and he have only heard that the informant had received an extortion phone call but who had make the call he do not know. He have no idea as to what has happened after receiving the phone call.

14. In the cross-examination, he stated that he have no personal knowledge about the occurrence.
15. It appears that, the allegation of the complainant against the accused is demanding Rs. 1 Lac over telephone. While going through the prosecution evidence, we find that the complainant informed the matter of demand of Rs. 1 Lac to his landlord PW4 Sri Kusheswar Patangia which is admitted by PW 4. PW 1 has also admitted that, the matter of demand of Rs. 1 Lac to the complainant was informed to him also while PW 2 has denied having any knowledge about the said demand. PW 3, the complainant himself has claimed that the amount of Rs. 1 lac was demanded to him through telephone call. But, the version of any of the prosecution witnesses have not mentioned the name of the accused as the person who demanded Rs. 1 lac from the complainant through telephone call. At the same time, we do not find any authentic document in the case record that the mobile phone from which the call was made to the complainant demanding Rs. 1 lac from him belonged to the accused. Besides, we do not find any piece of document containing the content of demand. Parallely, in the case record, there is no evidence that the I.O. had anyway confirmed the voice of the person demanding Rs. 1 lac from the complainant by voice test. When the voice of the person demanding the amount is not confirmed by the I.O. to be the voice of the accused person, we cannot ascertain that the accused was involved in the allegation made by the complainant. Therefore, the prosecution evidence fails to inspire any confidence about the involvement of the accused with the alleged offence.
16. From the above appraisal, appreciation of evidence on record, and the application of law, I find that the prosecution failed to establish the offences U/S 387 I.P.C. against the accused beyond all reasonable doubt. In the result, the accused is not found guilty U/S 387 I.P.C. Hence, the accused Sri Dawharo Boro is acquitted from the charge U/S 387 I.P.C. on benefit of

doubt and he is set at liberty forthwith.

9. Bail bond shall remain in force for next 6 months as per provisions of Section 437 (A) CrPC.

Given under the hand and seal of this Court on this 17th day of March, 2020 at Udalguri, BTAD, Assam.

Dictated and corrected by me:

(Mridul Kumar Saikia)
Chief Judicial Magistrate
Udalguri, BTAD, Assam.

(Mridul Kumar Saikia)
Chief Judicial Magistrate.
Udalguri, BTAD, Assam.

APPENDIX

- A. Prosecution witnesses : PW 1- Sri Raben Chandra Deka
PW 2- Sri Arjun Limbu
PW 3- Sri Alakesh Baruah and
PW 4- Sri Kusheswar Patangia.
- B. Defence witness : Nil.
- C. Documents exhibited : Ext. 1 – Ejahar

(Mridul Kumar Saikia)
Chief Judicial Magistrate
Udalguri, BTAD, Assam.

Transcribed and typed by me:

(Poonam Rajbongshi/Stenographer)

17/03/2020

Accused Sri Daoharo Boro is produced from judicial custody.

Remand him to judicial custody.

On submission of learned Additional PP, the prosecution evidence is closed.

Statement of accused U/S 313 Cr.P.C. is recorded.

Heard argument from both sides.

From the evidence on record, I find that the prosecution has failed to establish the offences U/S 387 I.P.C. against the accused beyond all reasonable doubt. In the result, the accused is not found guilty U/S 387 I.P.C. Accordingly, the accused Sri Daoharo Boro is acquitted from the charge U/S 387 I.P.C. on benefit of doubt and set him at liberty forthwith.

Bail bond shall remain in force for the next 6 months as per provisions of section 437-(A) Cr.P.C.

Judgment is pronounced in the open Court and kept separately with the case record.

Case is accordingly disposed of.