

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE : : : :**  
**TINSUKIA**

**Present:** Smt. A. Bhattacharyya, A.J.S.  
Chief Judicial Magistrate,  
Tinsukia.

**PRC. No. 298/2018**

Under Section 379 of the Indian Penal Code

The State of Assam.....Complainant

-Versus-

Sri Ajoy Gupta @ Chandan.....Accused person

**Appearance :-**

Smti Jamila Khatoon,

Ld. Addl. Public Prosecutor.....For the State

Sri Nibha Kalita

Ld. Advocate.....For the accused

Evidence recorded on : 20.08.2018, 28.09.2018,  
05.02.2019, 11.06.2019.

Date of Argument : 20.06.2019

Date of Judgment : **08.07.2019**

## J U D G M E N T

**1.** The prosecution case in brief is that on 21-05-2018 the complainant Sri Mrinal Dutta filed an *Ejahaar* before the Officer-In-Charge of GRPS, Tinsukia stating *inter alia* that on 21.05.18 he arrived at Tinsukia Railway station from Guwahati by Intercity Express. At the time of passing out from the station, at the front gate, a person committed theft of his money bag. While he asked the person to return the same, the said person refused. At that time RPF/CIB, Tsk came and asked him about the incident. He told them about the theft of his money bag and then they caught the person. The said person immediately dropped the money bag on the platform and the same was picked up by him. Hence, the complainant filed this case.

**2.** On receiving the *Ejahaar*, the Officer-In-Charge of Tinsukia GRPS. registered a case vide Tinsukia GRPS. Case No. 9/18 u/s 379 of IPC. The police investigated the case and filed charge-sheet against the accused Sri Ajoy Gupta @ Chandan u/s 379 of the Indian Penal Code. Summons was served upon the accused person. On appearance of the accused person copy was furnished and Charge framed u/s 379 of IPC and was read over and explained to the accused person, to which he pleaded not guilty and claimed to be tried.

**3.** The prosecution examined 4 (Four) Pw.s including the IO.. The defence was of total denial. Heard the argument and perused the evidence & record carefully.

### **Point for determination**

4. The following points are considered for determination of this case:

1. Whether the accused person on 21-05-2018 at New Tinsukia Railway Station, committed theft of money bag of the complainant, without his consent and moved the said money in order of such taking and thereby liable to be punished for offence under section 379 I.P.C.?

### **Discussions, Decisions And Reasons Thereof**

5. The prosecution adduced the following evidences for establishing their case:

6. PW-1, the informant Sri Mrinal Dutta deposed in his evidence that on 21-05-2018 he came from Guwahati in Intercity Express and he got down at New Tinsukia Railway Station at about 10-15 A.M. When he reached near the front gate of the railway station, there was big gathering of the Public and he felt somebody had dashed him. Immediately, he searched his back pocket for his money bag, but he could not find his money bag. He guessed that perhaps the accused, who was present at that time on the place of occurrence had taken his money bag and he asked him about the incident. But he denied and entered into the platform. Immediately two persons in civil dress came to him and asked him about the matter. Later on, he came to know that they were RPF of NF railway. They apprehended the accused person and the accused person threw the said money bag on the ground. Then, RPF took the said money bag and brought the accused to the office. He also went alongwith them. Thereafter, he lodged a written ejahar to the O/C, GRPS, Tinsukia and police seized the said money bag including a sum of Rs. 360/- and PAN card. Ext. 1 is the said ejahar and Ext.1(1) is his signature. Ext. 2 is the said

seizure list and Ext.2(1) is his signature. Later on, police gave zimma the said money bag to him.

**7.** PW.2 Sri Jiten Bikomiya deposed in his evidence that on 21-05-2018 he was posted at Tinsukia as ASI, CIB, Tsk, RPF at New Tinsukia Platform. On that day while he was on his duty along with Sri Nabajit Das at New Tinsukia railway platform, he noticed that the accused was loitering in platform No. 1 from 9:00 A.M. At about 10-15 A.M the Intercity Express reached to the platform No. 1 and some Passengers gathered in the exit gate. The accused was also coming alongwith the passengers through exit gate. In the meantime he noticed that the informant Sri Mrinal Dutta was searching for his money bag and he asked him about the matter. Then the informant told him that his money bag had been stolen by someone. Then they caught hold of the accused and when they asked him about the incident he threw the money bag on the platform and the informant identified the said money bag that it belonged to him. Thereafter, they brought the accused person along with money bag to GRPS. The informant also came to the office and lodged a written ejahar before O/C, GRPS. Police seized the said money bag in front of him. Ext.2 is the said seizure list and Ext.2 (2) is his signature.

**8.** PW.3 Sri Navojit Das deposed in his evidence that on 21.05.2018 he was on duty at New Tinsukia Railway Station as constable, RPF. On that day, his duty time was from 6 am to 2 pm. On that day at about 10 am while he along with ASI J. Bimomia was on duty, the Intercity Express 15603 Up arrived in NTSK Railway Station. The accused person was loitering in the platform no. 1 . At that time near the Exit gate one person raised hue and cry that his money bag Had been stolen by some miscreant. Immediately they proceeded to the exit gate and then the said person showed them that the accused had taken his money bag. When they apprehended him, he immediately threw the said money bag in the ground of the platform.

The victim also came at the place of occurrence and the money bag . Thereafter, they brought the accused and the victim to the GRPS office. In the said beg there was a sum of Rs.360/- and one PAN Card of the victim. Ext.2 is the said seizure list and Ext.2(3) is his signature.

**9.** PW.4 the Investigatin Officer, ASI Sri Bijoy Ch. Bodo deposed in his evidence that on 21.05.18 the complainant Mrinal Dutta lodged an ejahar before O/c, Tinsukia and after getting the said ejahar, O/c (Inspector) Sri Dipak Tamuly registered the same as Tinsukia GRPS C/No. 09/18 u/s 379 IPC and endorsed him for the investigation of the case. After taking the investigation, he found that the accused was brought by RPF Jiten Bikomia and constable Nabajit Das to the GRPS Office at New Tinsukia Rly. Station. The complainant was also present there. He recorded the statement of complainant, RPF Jiten Bikomia and constable Nabajit Das at the GRPS office. He seized the stolen articles, money bag with Rs.360/- and one PAN CARD as produced by the complainant in presence of the witnesses. Ext.2 is the seizure list. Ext.2(4) is his signature. O/C, Tinsukia PS registered a GRPS case No.9/18 u/s 379 IPC and endorsed him for the investigation of the case. Ext.1 is the said ejahar. Ext.1(2) is the signature of O/C Dipak Tamuli with his endorsement. Thereafter, he proceeded to the PO at exit gate of New Tinsukia Rly station platform No.1. He drew a sketch map of the PO. Ext.3 is the sketch map and Ext.3(1) is his signature. Later on, he gave zimma of the seized stolen articles to the complainant and sent the accused person to the Tinsukia Civil Hospital for medical treatment. After medical examination he interrogated the accused person Sri Ajoy Gupta @ Chandan and getting sufficient materials against him, he arrested him and later on forwarded to the learned court. After completion of his preliminary investigation he handed over the case diary to O/C Tinsukia PS on 22.05.18. Later on SI Sakan Ram Boro filed a charge sheet after completion of investigation against the accused Ajoy Gupta @ Chandan u/s 379 IPC getting sufficient materials against him. Ext.4 is the C.S and Ext.4(1) is the signature of SI Sakan Ram Boro.

**10.** Heard the Ld. Counsel for the accused and the Ld. Addl. P.P., It is reflected from the evidence on record that out of four prosecution witnesses, PW4 is the investigating Officer .The Investigating Officer PW4 ASI Sri Bijoy Ch. Bodo deposed in his evidence that the witnesses available on the CD did not see the accused committing the offence of theft but later on, they only witnessed that the bag of the complainant was lying on the floor. The complainant PW1 also deposed in his cross examination that the RPF persons found his money bag lying on the platform. As he suspected that the accused person was involved in the offence, he lodged the ejarah regarding the same before the police station. He lodged the case and gave evidence in the Court on suspicion of the accused.

**11.** PW2 Sri Jiten Bikomiya in his cross examination also deposed that he found the purse of the informant on the railway platform. The said purse was picked up by the informant and accompanied them to the GRPS and thereafter ASI Boro seized the purse from the possession of the informant Mrinal Dutta and prepared Ext.2 and he signed thereon. He had not seen that the accused had committed theft of the purse from the possession of the informant. The other prosecution witness PW3 also deposed during his cross examination the money bag was recovered from the platform which was found about 15 meters away from where they stood. The money bag was picked up by the complainant Mrinal Dutta and handed over to ASI J. Bikomia. He did not see the accused person taking out the money bag from the pocket of the complainant.

**12** Considering the above reasons, I find that the prosecution failed to prove the ingredients of Sections 379 of IPC against the accused person beyond reasonable doubt. Accordingly, the accused person viz. Chandan Gupta @ Ajoy is acquitted from the offence punishable u/s 379 of IPC and I exonerate the accused person from the above offence, setting him at liberty forthwith. The bail bond shall stand cancelled after six months.

**13.** This case is accordingly disposed of.  
**Given** under my hand and seal of this Court on the **08<sup>th</sup>**  
day of **July, 2019.**

Dictated and corrected by me.

(Audri Bhattacharyya)  
Chief judicial Magistrate,  
Tinsukia.

(Smti Audri Bhattacharyya)  
Chief Judicial Magistrate,  
Tinsukia.

**APPENDIX**

**PROSECUTION WITNESSES**

P.W1- Sri Mrinal Dutta,

P.W2- Sri Jiten Bikomiya,

P.W3- Sri Navojit Das,

P.W4- Sri Bijoy Ch. Bodo, IO.

**PROSECUTION EXHIBITS:**

Ext.1- Ejahar,

Ext.2- Seizure list,

Ext.3- Sketch Map,

Ext.4- Charge sheet.

(Smti Audri Bhattacharyya)  
Chief Judicial Magistrate,  
Tinsukia.