

**IN THE COURT OF THE SPECIAL JUDICIAL RAILWAY  
MAGISTRATE, TINSUKIA**

**PRESENT:** M. HAZARIKA, AJS

Special Railway(Judicial) Magistrate, Tinsukia

**SR/CR Case no 298 / 19**

**(U/S 174(a)/145/146/147 of The Railways Act, 1989)**

Union of India

VS

1. Dipon Jyoti Phukan
2. Dhruva Gohain

**Appearance**

For State: Mr.Y.K.Misra

For Defence: Mr. Kalyan Borpuzari, Mrs. N.Dutta

Date of Evidence: 28.05.2019

Date of Examination of Accused person: 28.05.2019

Date of Argument: 28.05.2019

Date of Judgment: **28.05.2019**

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

1. The prosecution case is that on 06.01.2019 at about 6.40 PM 500 picketers of "Citizenship Amendment Bill 2016 Birudhi Manch" under the leadership of accused persons namely Dhruba Gohain and Dipon Jyoti Phukan had illegally entered the Chabua railway station and conducted "rail roko" agitation against the amendment of citizenship act and as a result train 15960 Dn was detained in the said station for 2 hours. It is pertinent to mention here that the said accused persons had created nuisance in the Chabua Railway Station and also obstructed the working of on duty railway servant at train no. 15960 Dn as well as in the said station.

## **INVESTIGATION**

2. On receipt of the complaint petition, IPF/NTSK of RPF/POST/NTSK registered the case vide RPF/POST/NTSK Case No 22/19 under Section 174(a)/145/146/147 of The Railways Act, 1989. The E/O of the instant case visited the place of occurrence, recorded the statement of witnesses as well as statement of the accused persons, arrested the accused persons and released them on bail. E/O on conclusion of the investigation submitted the prosecution report against the aforesaid accused persons under section 174(a)/145/146/147 of The Railways Act, 1989.
3. On receipt of the prosecution report, this Court took cognizance of the case for disposal. The accused persons were served with summon and

on their appearance before the Court they were allowed to go on bail. The accused persons were served with copies as per statutory provision and the charge punishable under section 174(a)/145/146/147 of The Railways Act, 1989 read over and explained to the accused persons to which they pleaded not guilty and claimed to stand the trial.

## **TRIAL**

4. In order to establish its case, Prosecution examined one witness as PW1 and exhibited the complaint as Ext-1, confessional statement of accused Dhruva Gohain as Ext 2, confessional statement of accused Dipon Jyoti Phukan as Ext 3, Train detention certificate as Ext4, statement of PW1 as Ext5 and prosecution report as Ext 6. As the witness produced by the prosecution side implicated the accused persons as a result accused persons were examined under section 313 CrPC. Accused admitted the allegation meted out against them in the evidence produced by the prosecution side and also declined to adduce defence evidence. Defence case is nothing but bare denial of the prosecution case.
  
5. I have heard the Learned Counsel for the parties on length and upon hearing and perusal of records. I have framed the following points for determination in order to form a definite finding regards the discussion.

## **POINTS FOR DETERMINATION**

6. Whether the accused persons on 06.01.2019 at about 6.40 PM along with 500 picketers had illegally entered the Chabua Railway station and created nuisance, prevented railway servant of train no. 15960 Dn as well as in the said station from conducting their duties lawfully and also conducted Rail Roko at the said station and thereby committed an

offence punishable under section 174(a)/ 145/146/147of The Railways Act,1989.

## **DECISION AND REASON therefore**

7. I have gone through the entire evidence on record and also heard Ld. Counsel for both side. In backdrop of these facts let me appreciate the evidence produce by the prosecution.

8. PW1 namely SI S.K. Das in his evidence stated that on 06.01.2019 at about 6.40 PM received an information from Security Control Room, Tinsukia that some agitators had conducted Rail Roko at Chabua Railway Station. PW1 stated that on receiving the said information he along with ASI D.C. Baishya and IPF/NTSK went to the place of occurrence and saw that accused persons along with 500 picketers of "Citizenship Amendment Bill 2016 Birudhi Manch" , Chabua division had illegally entered the Chabua Railway Station and conducted rail roko. PW1 stated that as a result of the said agitation train no. 15960 DN was detained at Chabua station for about 2 hours (approx). PW1 stated that the accused persons along with the picketers had illegally entered the Chabua railway station and created nuisance thereby preventing the railway servants of Chabua railway station as well as of the said train to discharge their duties lawfully. PW1 stated that at about 8.45 PM accused persons had withdrawn their agitation. PW1 stated that after the said incident ASI D.C. Baishya had lodged a complaint against the said act of the accused person at RPF/POST/NTSK and SI Rakesh was endorsed to investigate the instant case by IPF/NTSK.

9. On perusing the Exhibited documents as well as evidence of the prosecution side as a whole it transpires that on 06.01.2019 at about 6.30 PM accused persons along with 500 picketers illegally entered the Chabua Railway station and conducted rail roko as a result of which train no. 15960 DN was late by 2 hours in the said station. It is pertinent to mention here on perusing the evidence of the prosecution side that a strong inference can be drawn towards the guilt of the accused person since defence did not cross examine the said vital witness.
10. From the evidence of the prosecution side, it is proved beyond reasonable doubt, that the prosecution has succeeded to bring home the charge leveled against the accused persons beyond all reasonable doubt Accordingly accused are hereby convicted under Section 174(a)/145/146/147 of The Railway Act, 1989.

## **Sentence Hearing**

11. I have heard the accused person on the question of sentence proposed to be imposed on him and the same was written in a separate sheet and tag with the case record. The accused persons prayed for mercy and leniency in sentencing him as he is the only earning member of his family.

12. Considering the nature of the offence and the circumstance of its commission, this Court deem it fit and proper to provide the benefit of Probation of Offenders Act,1958 to the accused persons. Since the offence committed by the accused persona are not heinous and that it is the first offence committed by the accused person. Moreover accused is the only earning member of his family and they are the only person to maintain their family.

## **ORDER**

In view of the above discussion, this Court is of the view that accused persons are guilty u/s 174(a)/145/146/147 of The Railway Act,1989. And accordingly the convicted accused persons namely Sri Dhruba Gohain and Dipon Jyoti Phukan are sentenced to pay a fine of Rs 4,500/- (Rupees Four Thousand Five Hundred only) each i/d SI for fifteen days.

Let a copy of this judgment be furnish to the accused person free of cost.

Judgment is signed, sealed and delivered in the open Court on this 28<sup>th</sup> day of May, 2019

Dated: 28.05.2019

Mrs. Merileen Hazarika  
Special Railway Magistrate, Tinsukia

# **APPENDIX**

## **Witness for Prosecution**

PW1

S.K. Das

## **Witness for Defence**

Nil

## **Document for Prosecution**

Ext1	Complaint petition
Ext1(1)	Signature of ASI D. C. Baishya
Ext2	Confessional Statement of accused Dhruba Gohain
Ext2(i)	Signature of accused Dhruba Gohain
Ext2(2)	Signature of EO
Ext3	Confessional statement of accused Dipon Jyoti Phukan
Ext3(i)	Signature of accused Dipon Jyoti Phukan
Ext 3(ii)	Signature of SI Rakesh
Ext4	Train Detention certificate
Ext4(i)	Signature of SS/Chabua
Ext5	Statement of PW1
Ext5(i)	Signature of PW1
Ext5(i)	Signature of EO
Ext6	Prosecution Report
Ext6(i)	Signature of SI Rakesh

## **Document for Defence**

Nil