

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, SONARI

St. C.R.Case No: 01 of 2017

U/S 33/35/40/41/34 of Assam Forest Regulation Act, r/w Section 34 IPC

State

vs

Sri Dibyajyoti Phukan and

Sri Mridupawan DuwarahAccused persons

Present: Sri Angaz Baruah, A.J.S.

Evidence recorded on: 07.02.20

Arguments heard on : 27.02.20

Judgment delivered on: 27.02.20

For the prosecution : Assistant Public Prosecutor, Sri Ranjit Cheleng

For the defence : Sri Suresh Pareek

Judgment

1. The accused persons namely, Sri Dibyajyoti Phukan and Sri Mridupawan Duwarah have stood trial for offence punishable under section 33/35/40/41/34 of Assam Forest Regulation Act, r/w Section 34 IPC

Allegation:

2. Sri Prashanta Gogoi, Forest Range Officer, Sonari Range, Napuk, initiated the case stating that two persons namely Sri Dibyajyoti Phukan and Sri Mridupawan Duwarah were arrested on 06/01/2017 at about 2.30 a.m. at Napuk Tea Estate, near Janoki pathar while carrying two nos. of illegal logs in a D.I. Mini truck bearing registration no. AS 06AC 1499. On enquiry, they found that the logs were brought from a felled sum tree of Abhoyapur Reserve Forest. The report is submitted to the Ld. Sub-Divisional Judicial Magistrate (M), Charaideo for necessary action as logs were attempted to be transported illegally. Hence the case.

Information and Investigation:

3. Without any permit or pass carrying the logs, the accused persons have contravened section 34/35/40/41/49(a) of Assam Forest Regulation Act and amended act 1995. After completion of due departmental formalities the offence report was led against the accused persons and forwarded them to face the trial.

Trial:

4. The Ld. Sub-Divisional Judicial Magistrate (M), Charaideo have forwarded the case to this court. On appearance before the court, copies of all relevant documents were furnished to the above named accused persons as per requirement of law.

5. During trial, the prosecution examined two witnesses namely Sri Prashanta Gogoi and Sri Raja Borgohain. After recording their evidence before charge, formal charges were framed against the accused persons u/s 33/35/40/41 of Assam Forest Regulation Act r/w Section 34 of IPC. Thereafter, the accused persons were examined as per section 313 Cr.P.C. in which their plea was of total denial.

6. Defence declined to adduce any defence evidence. I have heard arguments forwarded by Ld. Counsel for both sides. The defence did not adduce any evidence. I have also carefully gone through all the evidences adduced on record.

Point for Determination:-

- i. Whether the accused persons on 06.01.2017 at about 2.30 a.m., at Napuk Tea Estate, in furtherance of their common intention, illegally carried two nos. of logs from Abhoyapur Reserve Forest and thereby infringed the provision u/s 33 of Assam Forest Regulation Act and thereby committed an offence u/s 35 of Assam Forest Regulation Act?*
- ii. Whether the accused persons on 06.01.2017 at about 2.30 a.m., at Napuk Tea Estate, in furtherance of their common intention, illegally carried two nos. of logs from Abhoyapur Reserve Forest and thereby infringed the provision u/s 33 of Assam Forest Regulation Act and breached the rules u/s 40 of Assam Forest Regulation Act and thereby committed an offence u/s 41 of Assam Forest Regulation Act?*

Prosecution evidence:

7. PW1 Sri Prashanta Gogoi stated that on 06/01/2017, at 2.30 a.m., Sri Raja Borgohain and forest guard Sri Hiteswar Chetia while patrolling, seized one vehicle carrying two logs. PW1 further stated that on enquiry, it was found that the accused persons were carrying the logs without valid documents. PW1 also stated that he made the forwarding report which is exhibit 1.

8. PW2 Sri Raja Borgohain stated that on 06/01/2017 at 2.30 a.m., he and other staff of Napuk Range Forest Reserve while patrolling, found one vehicle carrying two logs illegally. PW2 also stated that the accused persons were arrested and the vehicle and the logs were seized. PW2 stated further that he filed the offence report against the accused persons which is exhibit 4.

9. In the cross examination of PW1 and PW2 stated that they were not inclined to proceed with the case as the issues between them and the accused persons were resolved. Further they added that they had no objection if the accused persons are acquitted from this case.

10. From the evidence of the prosecution witnesses, it appears that no offence has been made out against the accused persons under any section of law. It

is clear to the prosecution that has failed to implicate the accused persons to any offence.

Order:

11. In the light of the above discussions, the accused persons namely, Sri Dibyajoyti Phukan and Sri Raja Borgohain are acquitted from the offence under section 33/35/40/41/34 of Assam Forest Regulation Act, r/w Section 34 of the Indian Penal Code and set at liberty forthwith.

Their bail bonds are extended for six months from today under Sec. 437-A, Criminal Procedure Code.

The seized articles be disposed of as per law.

Given in my hand and under the seal of this court on this the 27th day of February, 2020.

Typed By Me:

(Sri Angaz Baruah)
Judicial Magistrate First Class, Sonari

APPENDIX

A. Prosecution Witnesses:-

PW-1: Sri Prashanta Gogoi

PW-2: Sri Raja Borgohain

B. Defence Witness :-

None

C. Prosecution Exhibits:-

Ext-1: Forwarding letter dated 06/01/17 by
Forest Range Officer, Sonari Range, Napuk.

Ext-1(1): Signature of Forest Range Officer.

Ext-2: Seizure Report.

Ext-2(1): Signature of Forest Range Officer.

Ext-3: Seizure list

Ext-3(1): Signature of Detecting Officer.

Ext-4: Offence Report.

Ext-4(1): Signature of Detecting Officer.

D. Defence Exhibits:-

NONE.

Judicial Magistrate First Class, Sonari.