

APPENDIX

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, BAKSA, MUSHALPUR Present : Smti. Dimple Boro, CJM. Date of Judgment: 19-10-2022 Case No. : PRC-320/21 Gobardhana PS Case No. : 187/20 U/s : 448/171(C) IPC	
Complainant	State of Assam
Represented by	Mr. Ranjit Basumatary , APP.
Accused	1. Sujan Bakshi, S/o: Lt. Sukumar Bakshi, Vill: Bongshibari, PS: Gobardhana, Dist.: Baksa. (A-1)
Represented by	Adv. Mrityunjoy Mazumdar
Date of Offence	07-12-2020
Date of FIR	07-12-2020
Date of Charge Sheet	31-12-2020
Date of Framing of Charge	15-03-2022
Date of commencement of evidence	19-04-2022
Date on which judgment is reserved	NA
Date of Judgment	19-10-2022
Date of the Sentencing Order, if any	NA

Accused Details:

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release On Bail	Offences Charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec. 428 Cr.PC.
A-1	Sujan Bakshi	NA	17-12-2021	U/s-448/171(C) IPC	Acquitted	NA	NA

APPENDIX**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES****A. Prosecution:**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Syed Abdul Hussain	Informant
PW2	Subhir Das	Other witness
PW3	Pankaj Wary	Other witness
PW4	Khowaj Uddin Ali	Other witness
PW5	Abdul Haque	Other witness

B. Defence Witnesses, if any : NIL

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
-------------	-------------	---

C. Court Witnesses, if any : NIL

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
-------------	-------------	---

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Ext.P-1/PW1	FIR

B. Defence: NIL

Sr. No.	Exhibit Number	Description
----------------	-----------------------	--------------------

C. Court Exhibits: NIL

Sr. No.	Exhibit Number	Description
----------------	-----------------------	--------------------

D. Material Objects: NIL

Sr. No.	Exhibit Number	Description
----------------	-----------------------	--------------------

J U D G M E N T

1. On 07-12-2020 informant ASI of Police Abdul Hussain lodged an FIR before OC, Gobardhana PS to the effect that on the same day at around 4.10 pm during polling at 589 No. Bangshibari Primary School, the accused entered into the said Centre and asked one woman to cast vote on his party. This created a chaos in the Centre, hence the informant caught the accused and brought him to the police station.
2. Gobardhana PS Case No. 187/20, u/s 448/171(C) IPC was registered and investigated into. After completion of investigation, charge-sheet was submitted against the accused person u/s 448/171(C) IPC.
3. Charge was framed against the accused person U/s 448/171(C) IPC and contents of the charge under the said sections were read over and explained to the accused person to which the accused person pleaded not guilty and claimed to be tried.
4. The prosecution examined 5 (five) nos. of witnesses and defence examined none.
5. The accused person is examined u/s 313 Cr.P.C. The accused person has declined to adduce evidence.

6. I have heard argument of the learned A.P.P. as well as the learned defence counsel and perused all the relevant documents available on record.

7. POINTS FOR DETERMINATION:-

1. Whether the accused person had committed house trespass?
2. Whether the accused person had committed undue influence in the election?

8. DISCUSSION, REASONS AND DECISION:

9. POINT NO. 1 & 2:

10. S. 171(c) IPC defines 'undue influence' at election. Undue influence at an election is defined as the voluntary interference or attempted interference with the right of any person to stand, or not to stand as, or withdraw from being, a candidate, or to vote or refrain from voting. This covers all threats of injury to person or property and all illegal methods of persuasion and any interference with the liberty of the candidates or the electors. The inducing or attempting to induce a person to believe that he will become the object of divine displeasure is also interference.

11. The prosecution has examined the informant and four independent witnesses. The evidence of PW1 Syed Abdul Hussain (informant) shows that he simply brought the

accused to police station on allegation that the accused asked one woman to cast vote in favour of his party. Ext.P-1/PW1 is FIR. All PWs except PW3 said that the incident took place during election. PW2, 3 & 5 could not say anything about the alleged occurrence. PW4 Khowaj Uddin Ali said that people told him that the accused folded the ballot paper within the polling Centre of an old woman who cannot see properly.

12. The accused has also stated during his examination u/s 313 Cr.P.C. that he folded the ballot paper of his cousin sister.
13. The prosecution evidence does not show any undue influence by the accused. The polling Centre is not a place where any property is kept. Under such circumstance, I find that the prosecution has failed to prove the ingredients of S.448/171(C) IPC in respect of the present case.
14. Hence, from the above discussions, I find that it is not proved that the accused person had committed house trespass **AND** the accused person had committed undue influence in the election. So, the accused person cannot be held guilty u/s 448/171(C) IPC.
15. From the above discussions, I am of the considered opinion that the prosecution has failed to prove the guilt of the accused person beyond reasonable doubt U/s 448/171(C)

Contd...

PRC No.- 320/21

Page No. 8 of 8

IPC. So, I acquit accused Sujan Bakshi of the charges U/s 448/171(C) IPC and is set at liberty.

16. Given under my hand and seal of this Court this 19th day of October, 2022.

Typed by me—

**D. Boro
CJM, Baksa**

**D. Boro
CJM, Baksa**

Typed by me...

Contd...