

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, GOALPARA

GR CASE NO 727/2014

U/S 25(1-B) (a) of Arms Act

STATE OF ASSAM

VS

Forean T. SangmaAccused

PRESENT: **Jyoti Rupa Haloi**, AJS

Judicial Magistrate First Class.

Advocate for the Prosecution: Dipu Kalita, Learned APP.

Advocate for the Accused: Kuldip Malakar, Learned Advocate.

Evidence recorded on: 21.07.2018, 26.03.2019, 26.04.2019

Argument heard on: 01.06.2019

Judgment delivered on: 01.06.2019

JUDGEMENT

- 1.** The prosecution story in brief as revealed from the Ejahar is that based on an input received from 2/5 det ECCIU (Army Intelligence) regarding presence of one suspected GNLA terrorist in general area Thanthi a joint operation was launched by Army and police from Krishnai P.S. at 2220 hours on 12th April, 2014. On configuration of internal input, lay in wait position was occupied on Thanthi-Dairay Chillapara track by 2350 hours. At around 0110 hours one suspected person was seen moving on the track coming from village Thanthi. The approaching suspect was challenged to stop and subsequently he was apprehended. On spot search of the suspected person 01X7.65mm Pistol (Made in US), 01XMagznina and 04X7.65mm live rounds were recovered from the possession of Forean T. Sangma.
- 2.** The police at Rangjuli P.S. received and registered the Ejahar as Rangjuli P.S. Case No. 61/2014, conducted its investigation and on completion of the same, laid down the charge-sheet u/s 25(1-A) of Arms Act.
- 3.** The accused entered appearance and was enlarged on bail. After hearing both the parties a formal charge was framed u/s 25(1-B) (a) of Arms Act and the contents of the charge are then read over and explained to the accused person to which he pleaded not guilty and claimed to be tried. Hence, this trial.
- 4.** Prosecution has examined three witnesses in support of its case. The statement of the accused person is recorded u/s 313 Cr.P.C. However, he denied all the allegations levied upon him. The defence, however, did not adduce any evidence.
- 5.** I have heard the arguments advanced by the learned counsels of both sides. I have meticulously perused the case record.

6. POINT FOR DETERMINATION:

- (a) Whether the accused person had on 13.04.2014 at about 1.10 am at Thanthi, Krishnai, Goalpara was apprehended by Army personnel having in his possession one 7.65mm Pistol (Made in US), one Magazine, 4 rounds 7.65 live ammunitions, in contravention of section 3 of Arms Act, 1959 and thereby committed an offence punishable under section 25(1-B)(a) of Arms Act?

1. DISCUSSION, DECISION AND REASON THEREOF:

I have gone carefully through the entire evidence and materials on record.

PW1 Krendit Sangma deposed that he does not know the informant and the accused person. He does not know anything about the occurrence. He does not know why he was made a witness.

PW2 Arpish Sangma deposed that he does not know the informant and the accused person. He does not know when the incident took place.

PW3 Subhash Das deposed that he knows the informant. He does not know the accused person. The incident took place on 12.05.2014. O.C. of Rangjuli P.S. asked him and one constable to accompany Army in an operation. The Army took them to Thanthi Hill. At that time the Army had apprehended a person in ambush and show them that they have recovered an Arm from him. The accused person was taken into custody and was produced before the court.

In cross-examination he has deposed that he does not remember who went with him. The O.C. has not given them a written command at the time when he ordered them to go in the operation. The incident took place at about 12.00-1.00 a.m. He does not know how the army apprehended the person and in what condition. He does not know how the army recovered arms. At that time no nearby people were called. He did not see the arms

in the court. He denied the suggestion that he has deposed falsely.

I have heard the Learned APP and Learned Counsel for defence. Perused the entire case record and meticulously gone through the evidence on record.

From the perusal of the testimonies of the PWs it is seen that PW1 and PW2 have no knowledge about the occurrence and they have not identified the accused person.

PW3 has deposed that the army had apprehended a person in ambush and showed them that they have recovered an Arm from him. The accused person was taken into custody and was produced before the court.

Here, it is pertinent to mention that the PW3 has not directly witnessed the recovery of arms and after apprehending one person the army personnel brought that person before him. However, during cross examination PW3 deposed that does not know how the army apprehended the person and in what condition. He does not know how the army recovered arms.

So, PW3 has not complete knowledge about the recovery of arms. Moreover, he has not identified the accused person.

On the other hand prosecution has not adduced any other evidence.

Thus, after perusal of the entire evidence on record it has been perceived that there is no cogent evidence for proving the allegation brought against the accused.

On careful examination of the evidences on record it is seen that the evidences on record it is not possible to know whether the accused person was in possession of the seized weapon or not.

Hence, the ingredients of offence alleged against the accused are not fulfilled and the allegations brought against the accused is not proved beyond reasonable doubt.

- 2.** Thus, in view of the above discussions it is seen that the prosecution has failed to prove the charges against the accused

persons u/s 25 (1-B)(a) of Arms Act,1959 beyond reasonable doubt.

ORDER

- 3.** Hence, considering the above discussion, the accused Forean T. Sangma is not found guilty of the charges under Section 25(1-B) (a) of Arms Act.
- 4.** Hence, the accused person is acquitted of the charges under Section 25(1-B) (a) of Arms Act and set at liberty forthwith.
- 5.** The Bail bonds of Forean T. Sangma are extended for a period of 6 (six) months from today as per Section 437A, Criminal Procedure Code.
- 6.** Given in my hand and under the seal of this court on this the 01st day of June, 2019.

Smti Jyoti Rupa Haloi.
Judicial Magistrate First Class, Goalpara.

APPENDIX

- A. Prosecution Witnesses: PW1 Krendit Sangma
PW2 Arpish Sangma
PW3 Subhash Das
- B. Defence Witnesses: None
- C. Prosecution Exhibits: None
- D. Defence Exhibits: None

Smti Jyoti Rupa Haloi.
Judicial Magistrate First Class, Goalpara.

