

IN THE COURT OF SPECIAL JUDGE, ASSAM, GUWAHATI

**Present : Sri M. Ali, AJS,
Special Judge, Assam,
Guwahati.**

SPECIAL CASE NO. 17(A)/2004

STATE OF ASSAM

VS.

Arif Mohammad

..... **Accused Person**

**Date of hearing : 18.6.05
15.7.05
16.9.05
12.4.06
07.8.06
11.1.07
08.3.07
04.7.07
02.6.08
20.2.09
10.9.09
03.3.10
04.6.10**

Date of statement of accused : 09.12.09, 02.01.10,

Date of argument : 03.09.2011

Date of Judgement : 21.09.2011

**Advocate for prosecution : Sri G. Sarma,
Ld. Special P.P. for the State of Assam.**

**Advocates for defence : Sri. P. Kataki and Smti. A Deka Lahkar,
Ld. advocates.**

J U D G M E N T

1. The prosecution case in short is that on 27.07.2000 the Inspector of Police Sri K. Kochari of Vigilance & Anti Corruption, Assam lodged an ejahar with the Officer Incharge of ACB Police Station stating that in course of enquiry RE No. 26(5)98 it was found that accused Arif Mohammad Sectional Officer of Masimpur

Feriservice under Silchar Inland Water Transport Division took illegal gratification from (1) Salim Uddin Barbhuiya, (2) Bipul Ch. Das, (3) Sabir Ahmed Laskar and (4) Anandi Paul for enrollment in Inland Water Transport as muster roll labourer and engaged them to work at Masimpur and Jatinga Feriservice without paying any salary/wages and after a few months they were removed from their job. It is also stated that accused Arif Mohammad cheated those persons by abusing his position as public servant. On the basis of this ejarah ACB PS No. 8/2000 u/s. 420 IPC R/W Section 13(1)(d)/13(2) PC Act was registered which was endorsed to DSP, Silchar Sri R. Dutta Roy for investigation. In course of investigation statement of witnesses was recorded and certain incriminating documents were seized. At the concluding stage of the investigation the Principal Secretary to the Govt. of Assam, Transport Deptt. accorded sanction to prosecute accused Sri Arif Mohammad u/s. 420 IPC R/W Section 13(1)(d)/13(2) PC Act. After getting prosecution sanction I.O filed the chargesheet against the accused person under the above noted panel provisions of law.

2. At pretrial stage accused Arif Mohammad was granted bail on his appearance before the court and after going through the materials in the case diary the charge u/s. 420 IPC R/W Section 13(1)(d)/13(2) PC Act were framed against him to which he pleaded not guilty and claimed to be tried. In order to prove the case the prosecution has examined as many as 15 witnesses. The incriminating material in the prosecution evidence was brought to the knowledge of the accused person u/s. 313 Cr PC. In support of the defence plea three witnesses were examined by the accused person. The evidence of DW-3 Sri Chagendra Kalita is expunged as he did not turn up for cross examination by the prosecution side.

3. POINTS FOR DETERMINATION-

- (i) Whether accused Arif Mohammad during the period from April to November, 1995 cheated Bipul Ch. Das, Sabir Ahmed Laskar, Salim Uddin Barbhuiya and Anandi Paul by inducing them to deliver Rs. 16,000/-, Rs. 14,000/-, Rs. 16,000/- and Rs. 18,000/- respectively falsely promising them

to give employment in the Inland Water Transport Division, Silchar within the meaning of Section 420 IPC ?

- (ii) Whether accused Arif Mohammad being Sectional Officer of Inland Water Transport Division, Silchar committed criminal misconduct by abusing his position as public servant by obtaining Rs. 16,000/-, Rs. 14,000/-, Rs. 16,000/- and Rs. 18,000/- from Bipul Ch. Das, Sabir Ahmed Laskar, Salim Uddin Barbhuiya and Anandi Paul respectively on the pretext of giving job in Inland Water Transport Division, Silchar within the meaning of Section 13(1)(d) / 13(2) PC Act, 1988 ?

4. REASON FOR DECISION-

PW-1 Sri Dijendra Kr. Das, PW-2 Khogendra Kr. Das, PW-4 Sabir Ahmed Laskar, PW-5 Kalim Uddin Laskar, PW-6 Anandi Paul, PW-7 Fariz Uddin Barbhuiya, PW-9 Salim Uddin Barbhuiya, PW-14 Anjali Paul are witnesses of receiving illegal gratification by the accused person. PW-8 Sri Surajit Kr. Dhar Jidicial Magistrate recording the statement of witnesses u/s. 164 Cr PC. PW-10 Prafulla Ch. Sarma is the sanctioning authority. PW-11 Kitesh Kochari, PW-12 Jitendrajit Das and PW-13 Dharendra Kr. Singha are Investigating Officers of this case. DW-1 Kamaleswar Goswami is hand writing expert and DW-2 Deepak Kr. Chaliha is PWD Engineer.

5. PW-1 Sri Digendra Kr. Das has stated that Sri Ranjit Das a worker of Masimpur Ferighat told him that accused Arif Mohammad, Sectional Officer of Masimpur Ferighat could give job to his son Bipul Ch. Das if he is paid. One day in the month of January, 1995 accused Arif Mohammad went to his house and told him that if Rs. 16,000/- is paid he can give job to his son. Then he sought time for payment and on 01.04.1995 at 7 a.m. accused Arif Mohammad went to his house to receive the money and accordingly he paid Rs. 16,000/- to the accused person, who in turn gave him a receipt and told that if the job is not given money would be refunded. In the subsequent month of December the accused person

engaged his son Bipul as labourer at Masimpur ferighat and the accused used to pay Rs. 300/- to 400/- as wages per month, but after six months his son was discharged from the job and in the meantime accused Arif Mohammad was transferred to Guwahati.

6. PW- 2 Sri Khogendra Das has stated that PW-1 Dijendra Das is his neighbour and on 01.04.1995 he went to his house at about 7 a.m. and found accused Arif Mohammad in that house. Thereafter accused Arif Mohammad read a paper before them stating that he took a sum of Rs. 16,000/- from Digendra Das to give a job to his son Bipul Das and if the job is not given the amount would be refunded. Thereafter accused Arif Mohammad took the sum of Rs. 16,000/- from Digendra Das and gave a receipt vide Ext. 1 and Ext. 1(1) is his signature. Later Bipul Das was given a job as muster roll labour and after six months he was discharged. PW-3 Bipul Das has stated that accused Arif Mohammad demanded Rs. 20,000/- for giving him a job in the Inland Water Transport Ferighat at Masimpur and on 01.04.1995 accused Arif Mohammad came to his house and a sum of Rs. 16,000/- was paid to him by his father in presence of Khogendra Das. After taking the money from him the accused person allowed him to work at Masimpur Ferighat as muster roll labour from 22.12.1995 to May 1996. During the period he was not paid any salary or wages by the accused person. During investigation he made the statement before the Judicial Magistrate vide Ext. 2 and Ext. 2(1) is his signature.

7. PW-4 Sabir Ahmed Laskar has stated that in 1995 when he came to know that accused Arif Mohammad can give job in Inland Water Transport Ferighat he contacted him and as per discussion he paid Rs. 14,000/- to accused Arif Mohammad in his house in presence of his father Kalim Uddin. Accused Arif Mohammad after getting the amount gave him receipt vide Ext. 3. He has also stated that though he was engaged as muster roll labour in the said ferighat by the accused person for eight months he was not paid any salary for his service. During investigation he made statement before the Judicial Magistrate vide Ext. 4 and Ext. 4(1) is his signature. Supporting the evidence of his son PW-5 Kalim uddin Laskar has stated that his son Sabir Ahmed paid a sum of Rs.

14,000/- to accused Arif Mohammad for giving him a job in the ferighat and though his son was engaged as muster roll labour for eight months he was not paid any wages for his service.

8. PW-6 Anandi Paul has stated that one day in 1995 accused Arif Mohammad went to his house and demanded money for giving him job in Masimpur ferighat and accordingly he paid Rs. 18,000/- to accused Arif Mohammad and then he was allowed to work at Jatinga ferighat as muster roll labour from January 1995, but in the month of March 1996 he was not allowed to work as muster roll labour at Masimpur ferighat, and in August 1996 he was discharged from the job and when he demanded his salary the accused person did not pay. Thereafter he made a complainant before the Executive Engineer Sri Ratan Singh, who assured him to pay his salary, but it was not paid. During investigation he made statement before the Judicial Magistrate vide Ext. 5 and Ext. 5(1) is his signature. PW-14 Smti. Anjali Paul has stated that in November 1995 accused Arif Mohammad took a sum of Rs. 18,000/- from her son Anandi Paul to give him a job and though her son was given a job he was not paid any salary by the accused person.
9. PW-7 Sri Fariz Uddin Barbhuiya has stated that one day he was told by Anandi Paul that accused Arif Mohammad could give him job on payment of money and one day he went to the shop of Anandi Paul, who paid Rs. 18,000/- to accused Arif Mohammad. Though Anandi Paul was engaged as muster roll labour in Jatinga ferighat he was not paid any salary by the accused person. PW-8 Sri Surjit Kr. Dhar, SDJM, Kamrup has stated that on 03.11.2000 while he was serving as Judicial Magistrate, First Class, Silchar he recorded the statement of Bipul Ch. Das, Sabir Aumed Laskar, Salim Uddin Barbhuiya and Anandi Paul u/s. 164 Cr PC. Exdt. 6 is the order dtd. 03.11.2000 and Ext. 6(1) is the signature of CJM, Silchar, Cachar. Exrt. 2 is the statement of witness Bipul Ch. Das, Ext. 4 is the statement of witness Sabir Ahmed Laskar, Ext. 5 is the statement of witness Anandi Paul and Ext. 7 is the statement of witness Salim Uddin Barbhuiya. Exts. 2(1),4(3), 5(2) and 7(1) respectively are their signatures.

10. **PW-9 Selim Uddin Barbhuiya is declared hostile by the prosecution when he declined to support the prosecution case and it was suggested to him that he stated before the I.O that accused Arif Mohammad demanded Rs. 20,000/- for giving him a job and after negotiation the amount was reduced to Rs. 16,000/- and on 01.05.1995 when accused Arif Mohammad went to his house his brother Alim Uddin paid a sum of Rs. 16,000/- to accused Arif Mohammad, who assured him to give him a job and in December 1995 accused Arif Mohammad verbally engaged him as muster roll worker, but in October 1996 he was discharged without paying any salary for the work done.**
11. **PW-10 Sri Prafulla Ch. Sarma has stated that on 01.08.2003 while he was working as Principal Secretary to the Govt. of Assam, Transport Deptt. he accorded sanction against accused Arif Mohammad, Sectional Officer of Inland Water Transport, Masimpur, Cachar after going through the materials placed before him. The allegation against accused Arif Mohammad was that he collected Rs. 16,000/- from Bipul Ch. Das, Rs. 14,000/- from Sabir Ahmed, Rs. 16,000/- from Salim Uddin Barbhuiya and Rs. 18,000/- from Anandi Paul assuring them to give employment. Ext. 8 is the prosecution sanction order in two pages and Ext. 8(1) is his signature.**
12. **PW-11 Kitesh Kochari, Inspector of Police has stated that on 27.07.2000 while he was serving in Vigilance & Anti Corruption Deptt. he lodged the ejahar against accused Arif Mohammad, Sectional Officer, Masimpur Reriservice under Silchar IWT Division. The said case was registered u/s. 420 IPC R/W Section 13(1)(d)/13(2) PC Act. On 28.07.2000 the said FIR was forwarded vide Ext. 10, Ext. 11 is the proforma FIR in two pages. In his cross examination he has stated that before filing the ejahar there was a regular enquiry bearing No. 26(5)98 and after getting the enquiry report he lodged the ejahar as per direction of the Govt.**
13. **PW-12 Sri Jitendrajit Das has stated that on 20.08.2003 while he was serving as Inspector of Police, Vigilance & Anti Corruption, Assam the then SP endorsed the ACB PS Case No. 8/2000 against accused Arif Mohammad to him for completion of investigation and**

after going through the materials in the case diary he submitted the chargesheet against the accused person vide Ext. 12 and Ext. 12(1) is his signature. PW-13 Sri Dharendra Kr. Singh has stated that on 15.04.98 while he was serving as Inspector of police the then SP, Vigilance and Anti Corruption, Assam endorsed regular enquiry No. 26(5)98 and in course of enquiry he seized the money receipts issued by accused Arif Mohammad and recorded the statement of witnesses. On 04.05.1999 he seized three documents produced by Executive Engineer Sri D. K. Chaliha vide Ext. 13. Ext. 1 is the money receipt given by accused Ari Mohammad to Sri Bipul Ch. Das. Ext. 14 is the money receipt given by accused Arif Mohammad to Sri Selim Uddin Barbhuiya.

14. PW-15 Sri Ramendra Dutta Roy has stated that on 27.07.2000 while he was serving as Sub Inspector of Police in Vigilance & Anti Corruption Deptt. he was entrusted by the Superintendent of Police V & AC to investigate the case. In course of investigation he got the statement of Kalim Uddin, Alim Uddin and Anjali Paul by Judicial Magistrate. He also collected the FSL report vide Ext. 15. On his transfer he handed over the case diary to the Superintendent of Police.

15. DW-1 Sri Kamaleswar Goswami, retired Director of Forensic Science Laboratory has stated that on 28.11.2000 while he was serving at FSL, Guwahati he received the letter dtd. 23.11.2000 from DSP, Vigilance & Anti Corruption for examination of two signatures of the accused and official signature of accused signed in course of official work and three disputed signatures in the money receipts. Thereafter he referred the said letter to the Dy. Director, Question Documents Division for examination of the documents. As requested by the Dy. Director he asked the I.O by letter dtd. 02.01.2001 to furnish some more standard signatures of the person concerned to give the opinion on the authorship of the disputed documents. Ext. 15 is the said letter and Ext. 15(A) is the signature of Dy. Director Sri R. N. Dutta. DW-2 Sri Deepak Kr. Chaliha has stated that while he was serving as Asstt. Executive Engineer at Inland Water Transport, Silchar from 1996 to 2001 he came to know about the departmental proceeding against accused Arif

Mohammad and the then Executive Engineer Sri Ratan Singh had made a note sheet on the personnel file of accused Arief Mohammad vide Ext.B. At page 22 of Ext. B the then Director Sri N.C. Das approved for dropping the proceeding against Arif Mohammad as the complainant could not establish the allegation by giving evidence. Ext.B(1) is the signature of the then Director Sri N.C. Das and Ext.B(2) is the signature of the then Director Sri N.C. Das and Ext.B(2) is the signature of Joint Director of Inland Water Transport Sri K. Rajmedhi.

16. If we carefully scrutinize the prosecution evidence we would see that in this case four persons namely PW-3 Bipul Ch. Das, PW-4 Sabir Ahmed Laskar, PW-6 Anandi Paul and PW-9 Selim Uddin Barbhuiya were allegedly cheated by the accused person who took money from them by falsely assuring them to give job in the Inland Water Transport Ferighat at Silchar. According to PW-3 Bipul Das he paid Rs.16,000/- to the accused person on 1.4.95. He has also stated that though he was allowed to work by the accused person as muster roll worker from 22.12.95 till May 1996 he was not given any salary or wage for his work. The evidence of PW-3 Bipul Ch. Das is corroborated by his father Degandra Das who was present at the time of delivery of amount of Rs.16,000/- to the accused person in his residence. PW-2 Khogendra Das has also stated that he was present when PW-3 Bipul Das paid sum of Rs.16,000/- to the accused person in his residence.
17. According to PW -4 Sabir Ahmed Laskar as demanded by the accused person he paid Rs.14,000/- to him on 13.08.95 when the accused person went to his house to collect the amount and it was paid in presence of his father Kalim Uddin. This handing over of the amount of Rs.14,000/- to the accused person is corroborated by PW-5 Kalim Uddin who has also stated that after eight months working in Masimpur ferighat his son was not given any salary by the accused person for his work.
18. According to PW-6 Anandi Paul he paid Rs.18,000/- to the accused person who had promised to give him job in the ferighat and though he worked in that ferighat as muster roll labour from

1.3.96 to 31.8.96 he was not paid any wage or salary by the accused person. Corroborating the evidence of PW-6 his neighbour Fariz Uddin Laskar also stated that Anandi Paul paid Rs.18,000/- to the accused person in his shop and though Anandi Paul was allowed to work in Jatinga ferighat he was not paid any salary for his work. PW-14 Anjali Paul corroborating the evidence of PW-6 and PW-7 has also stated that accused Arif Mohammad was paid Rs.18,000/- in the month of November 1995 in her residence as a price for giving her son Anandi Paul a job.

19. According to the prosecution case the accused person had also taken a sum of Rs.16,000/- from PW -9 for giving him a job, but the PW-9 in his evidence before the court has not stated that he paid Rs.16,000/- to the accused person to give him a job. This witness has denied that he made statement before the Magistrate to the effect that initially accused Arif Mohammad demanded Rs.20,000/- for giving him a job, but after negotiation the amount was fixed at Rs.16,000/- which was paid to the accused person by him in his residence on 1.5.95 in presence of his father Basarat Ali Barbhuiya and though he served in the ferighat from December 1995 to September, 1996 he was not paid any amount. PW-8 Sri S.K. Dhar, Judicial Magistrate has stated that on 3.11.2000 he recorded the statement of Selim Uddin Barbhuiya vide Ext.7.

20. According to PW-1 accused Arif Mohammad after getting the amount of Rs.16,000/- from him gave a receipt thereof vide Ext.1 and Ex.1(1) is the signature of accused Arif Mohammad. PW-4 Sabir Ahmed Laskar has also stated that accused Arif Mohammad after receiving a sum of Rs.14,000/- on 13.8.95 gave him a receipt vide Ext.3 and Ext.3(1) is the signature of accused. PW-2 Khogendra Das has stated that the accused person after receiving the amount of Rs.16,000/- from Digandra Das PW-1 he gave him a receipt thereof vide Ext.1 and Ext.1(1) is the signature of accused. PW-9 in his cross examination has stated that one A.K. Fazal told him that accused Arif Mohammad, Section Officer would engage him as muster roll labour if he pays Rs.16,000/- and accordingly he paid the amount to A.K. Fazal who in turn gave him receipt vide Ext.A and told him that the money was handed over to

Arif who would make necessary arrangement for engaging him as muster roll labour.

21. The evidence of these witnesses has shown that accused Arif Mohammad gave the receipts vide Exts. 1, 3 and 14 (Ext.A) after receiving the amount from them. The I.O. in course of investigation of the case has sent all these three documents to the Director of Forensic Science Laboratory for examination to ascertain its authorship. DW-1 Dr. Kamaleswar Goswami has stated that after receiving the Question Documents and Standard Documents he sent a letter to the I.O. on 2.1.2001 stating that the documents which were furnished to them were not sufficient to express the definite opinion about the authorship of the disputed documents. Thus from the evidence of DW-1 it is seen that the authorship of those three receipts could not be ascertained. Now the question is whether this inability of the hand writing expert to give opinion on the authorship of those three documents cast any doubt on the oral evidence given by the prosecution witnesses. PW-1 Digandra Das, PW-2 Khogendra Das, PW-4 Sabir Ahmed Laskar and PW-5 Kalim Uddin Laskar have categorically stated that the accused person after receiving the amount gave receipts thereof. These witnesses have not stated that the accused person had written the receipts in their presence. On the other hand their evidence shows that the accused person had handed over the receipts already written. PW-9 Selim Uddin Barbhuiya who was declared hostile by the prosecution has also stated that A.K. Fazal after giving the amount to Arif Mohammad had given him a receipt vide Ext.A. He has of-course admitted that he does not know the signature of Ext.A. After carefully scrutinizing the evidence of these witness it is found that the accused persons had pretended to have signed the receipts after taking the amount from them for which the signatures in the receipts could not be ascertained.
22. What is now emerging from the prosecution evidence is that accused Arif Mohammad who was serving as Section Officer of Inland Water Transport Division, Silchar had engaged PW-3 Sri Bipul Das PW-4 Sabir Ahmed laskar, PW-6 Anandi Paul and PW-9 Selim Uddin Barbhuiya as muster roll labourer of Inland Water

Transport Division at Silchar after receiving the amount from them by allowing them to work for the period from six months to ten months and none of them was paid any wage or salary during that period.

23. Now the pertinent question is whether the materials shown by the prosecution evidence attract the ingredients of the offence u/s. 420 IPC the Hon'ble Supreme Court in Ram Narayan Poply Vs. CBI AIR 2003 SC 2748 has observed that Section 420 IPC deals with cheating and dishonestly inducing delivery of property. The offence of cheating is made of two ingredients. Deception of any person and fraudulently or dishonestly inducing that person to deliver any property to any person or to consent that any person shall retain any property. To put it differently, the ingredients of the offence are that the person deceived delivers to some one a valuable security or property, that the person so deceived was induced to do so, that such person acted on such inducement in consequence of his having been deceived by the accused and that the accused acted fraudulently or dishonestly when so inducing the person. To constitute the offence of cheating, it is not necessary that the deception should be by express words, but it may be by conduct or implied in the nature of the transaction itself. In the case in hand what we have seen that the accused person induced PW-3 Bipul Ch. Das, PW-6 Anandi Paul, PW-4 Sabir Ahmed Laskar and PW-9 Selim Uddin Barbhuiya to deliver Rs. 16,000/- Rs. 14,000/-, Rs. 16,000/- and Rs. 18,000/- respectively by falsely promising them to give job in Inland Water Transport Division, Silchar. In order to digestt the money received from them he had allowed them to work as muster roll labourer for the period from six to ten months and alter they were discharged without giving them any wage for the work done by them during that period. The modus operendy adopted by the accused person as it appears from the evidence is that at the time of receiving the amount from them he had pretended to have signed the receipts which were in fact already written by some other person known to him. All this things were done to cover up the deception practiced by him.

24. Now let us see the provision of section 13 (1)(d) PC Act – A public servant is said to commit the offence of criminal misconduct,

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(d) if he, -

(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(iii) While holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest; or

25. It is evident from the prosecution evidence that the accused person who was serving as Section Officer of Inland Water Transport Division, Silchar abusing his position as public servant obtained pecuniary advantage for himself. A reading of the provision of section 13(1)(d) would make it amply clear that all the wings of clause (d) are independent and alternative for constituting the ingredients for the offence. Thus obtaining any valuable or pecuniary advantage by corrupt or illegal means by the public servant in itself would satisfy the requirement of criminal misconduct u/s 13(1)(d) PC Act.

26. Following my discussion in the forgoing paras in the light of specific legal provision and legal ratio laid down by the Apex Court I am of the firm view that the prosecution has established the case against the accused person u/s. 420 IPC R/W Section 13(1)(d) PC Act beyond any shadow of doubt. Accordingly the accused person is found guilty.

27. The accused person in reply to the question on sentence has stated that he is innocent and sole bread earning member of his family.

28. Transparency International in its recent report has estimated that Indians spend Rs. 28000 crores every year by way of bribes. During last several decade the country has seen the execution of various five year plans involving huge expenditure by the govt. for

various nation building projects. Bribery and graft by public officers is one of the most organised crime which is characterised as white colour crime. Though our country did make progress but a big chunk of money earmarked for developmental projects has been pocketed by the corrupt officers, political leaders, businessmen, contractors, middlemen etc. The vicious forces of corruption have also started plaguing the very mechanism created to control it. The primary objective of criminal justice system is to prevent and detect deviant behavior to evaluate its extent and then to adjudicate the damage by prescribing suitable quantum of punishment. These measures are necessary to provide certain safeguards to ensure that citizens are protected and their human right are not infringed.

29. As we know that the more significant an institution is the more vigorously the society reacts to the behaviour which violates its norms. An unambiguous message is to be sent not only to the accused person but also to the probable offenders. The corruption which is believed to have penetrated into every sphere of society is one of the most talked about subject today. The 2G Spectrum Scandle, Commonwealth GameScandle and one thousand crores North Cachar Hills corruption case of Assam are first page news items of all dailies. Now we are all aware of the national conscience ignited by the anti corruption campaign. The success of panel a system lies in the extent to which it eradicates crime and manages at the same time that no innocent person is convicted. If the accused person is dealt with leniency it would send a very wrong message not only to him but also to the probable offenders.
30. Given the prevailing situation in our country and magnitude of the offence committed by the accused person he is convicted u/s. 420 IPC and sentenced to undergo rigorous imprisonment for four years with fine of rupees fifty thousand in default to undergo rigorous imprisonment for one year. He is also convicted u/s. 13(2) PC Act and sentenced to undergo rigorous imprisonment for four years with fine of rupees fifty thousand in default rigorous imprisonment for one year. The period of imprisonment under two both sections would run concurrently. The total fine of rupees

one lakh if realized shall be paid to Sri Bipul Ch. Das, Sri Anandi Paul, Sri Sabir Ahmed Laskar and Sri Selim Uddin Barbhuiya as compensation u/s. 357 Cr PC. Each get rupees twenty five thousand.

Assam,

**Special Judge,
Guwahati**

Appendix

Exhibited by Spl. P.P. -

- Ext. 1. Receipt**
- Ext. 2. Statement of PW – 3.**
- Ext. 3. Receipt**
- Exts. 4 Statement of PW – 4.**
- Ext. 5. Statement of PW – 6.**
- Ext. 6. Order of CJM, Cachar Silchar**
- Ext. 7 Statement of Salimuddin Borbhuyan**
- Ext. 8 Prosecution Sanction**
- Ext. 9 FIR**
- Ext. 10 Forwarding letter**
- Ext. 11 Format of FIR**
- Ext. 12 Charge Sheet**
- Exts. 13 Seizure memo**
- Ext. 14 Receipt**
- Exts. 15 FSL Report.**

Exhibited by Defence advocate-

- Exts. B Note Sheet Arief Mohammad.**

**Special Judge, Assam,
Guwahati**

**INTHE COURT OF SPECIAL JUDGE, ASSAM,
GUWAHATI**

Spl. Case No. 17(A)/04

Question on sentence of accused Arif Mohammad -

Q. - In this case you are found guilty u/s 420 IPC R/W Section 13(1)(d)/13(2) PC Act which are punishable up to seven years imprisonment with fine. What do you say on sentence ?

Ans. I am the sole bread earner of my family consisting my wife and two children. If I am send to jail their future will be ruined.