IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS, AT MORIGAON

<u>S.C.R.No. -475/2015</u> U/S 25 of Legal Metrology Act,2009

State

-Versus-

Sri Babul Bania..... accused person

Present: Smt. Pooja Sinha, AJS,

Judicial Magistrate First Class

Morigaon

Advocate appearing

for the Prosecution : Smt. Banti Devi

Advocate appearing for

the Accused persons : Sri M.C. Sarkar

Dates of recording Evidence : 03.05.2016& 01.06.2016

Date of hearing Argument : 28.09.2016

Date of delivering Judgment : 06.10.2016

JUDGMENT

- 1. Brief fact of the case as led by the Prosecution: On 22/10/2014, during the course of inspection Sri Senaram Saikia, Inspector, Legal Metrology Department at Gohaigaon, Morigaon in the premises of BABUL BANIA,s/o- Sri Moheswar Bania, c/o- M/S Barnali Jewellers (Morigaon), Vill- Udari, P.O- Udari & P.S- Morigaon, Dist-Morigaon, Assam found that One 5 tola, 3 tola, 2 tola, 1 tola, ½ tola, ¼ tola, 1/16 tola, 1 silver coin, 1 paisa one, parts of paisa 2 pc have been used by the above mentioned accused person in his commercial transaction.
- **2.** Thus, the above mentioned non standard weights, were seized under the possession of the above mentioned accused person for violation of Section-8 of the Legal Metrology Act 2009 and a prosecution case against him in the Court of Law for trial.

- 3. On receipt of the Complaint , criminal case was registered and transferred the same to this court for disposal. Hence, the Prosecution case has come out.
- 4. On completion of the appearance of the accused person, the particulars of the offences U/S 25 of Legal Metrology Act, 2009 was read over and duly explained to the accused person to which he pleaded not guilty and claimed to be tried.
- 5. During trial, the prosecution has examined 2 (two) witnesses. The accused person was examined U/S.313 Cr.P.C. Defence plea was he did not use the seized items in commercial transaction. Defence opted not to adduce evidence.

6. **Points for Determination:**

- (I) Whether the accused person on 22/10/2014 at Barnali Jewellery shop kept weight /measuring tool which is not in accordance of standard measure and thereby committed an offence U/S 25 of Legal Metrology Act?
- 7. **Discussion, Decision and Reasons thereof:**I have heard the learned Counsel appearing for the State. Also heard the learned Counsel appearing for the accused persons. Upon hearing the learned Counsel for the parties and on perusal of the records, I am of the considered opinion to hold the following:
- 8. **P.W. 1 Sri Kameswar Bordoloi**, he in his evidence stated that he knows the accused person. On the day of incident he went to the shop of the accused situated at Gohaigaon. The name of the shop is Barnali Jewellery. He went to the shop with Senaram Saikia who is the Inspector, Legal Metrology Department for inspection. Along with them the person named Idrish Ali was present. In the instant shop they inspected the measuring machine and the weighing tools. There they found total 5 tola, 3 tola, 2 tola, 1 tola, ½ tola, ¼ tola, 1/16 tola, 1 silver coin, 1 paisa one, parts of paisa 2 piece were used by the accused for commercial transaction. The above tools are not standard weights and hence they were seized by Senaram Saikia in my presence.

Exhibit-1. He exhibited the seizure list of Exhibit-1 and he identified his signature there on.

9. P.W.2 Senaram Saikia is the Inspector, he deposed at on 22/10/2014 at about 12.20 PM he went for inspection in the shop of the accused Babul Bania situated at Morigaon town. During inspection, he found weighing tools which are non standardized. They are 5 tola, 3 tola, 2 tola, 1 tola, ½ tola, ¼ tola, 1/16 tola, 1 silver coin, 1 paisa one, parts of paisa 2 piece.

Therefore, as the tools were non standardized, the same was seized and brought to the office after making seizure list at the spot of inspection. The signature of the accused along with the witnesses were taken at the seizure list. The copy of the seizure list is sent to the Controller, Legal Metrology Assam. Thereafter, a complain is forwarded tot he Court and its Exhibit as Exhibit-2. He identified his signature as Exhibit-1.

- 10. During cross-examination, he submitted that he was assisted by Kameswar Bordoloi and Idrish Ali on the day of inspection. The measuring instrument are to be renewed after every two years and they are verified and duly stamped.
- 11. On perusal of the materials and testimonies on record, the following facts are observed:

Firstly, that PW-1 has corroborated the evidence put forwarded by PW-2, who was the Inspector, Legal Metrology Department. The accused has used non standardized measuring tools.

Secondly, accused during his 313 statement has stated that he kept the seized items in the shop but did not use them .

Thirdly, the points requiring proof to prove an offence U/S 25 of Legal Metrology Act is that mere keeping of non-standard items is sufficient to prove the offence. The accused need not be caught red handed using the non standard tools while inspection. The discovery of non-standard tools in his shop is sufficient to prove the offence.

- 12. Considering the above, the accused is found guilty of the offence alleged with use of non standardized measurement tools while carrying on his business at "Barnali Jewellery" and thereby committed an offence under section 25 of Legal Metrology Act, 2009.
- 13. In the result, the accused Sri Babul Bania is found guilty and thereby convicted U/S 25 of Legal Metrology Act, 2009.

- 14. Convict is sentenced to pay a fine of Rs.5000/- U/S 25 of Legal Metrology Act, 2009 i.d. to S.I. for 30 days.
- 15. Fine amount so collected will be deposited at the Treasury.
- 16. The bail bonds furnished by the sureties are extended for a period of six months.
- 17. Seized articles are to be disposed of as per due procedure of law.
- 18. Furnish copy of the judgment to the convicted person.
- 19. The case is disposed of on contest.

Given under my hand and seal of this court on this the 6^{th} day of October, 2016 at Morigaon.

(Pooja Sinha) Judicial Magistrate First Class Morigaon

Typed and corrected by me

(Pooja Sinha) Judicial Magistrate First Class, Morigaon

APPENDIX

Prosecution Witness-

- 1. P.W.1- Sri Kameshwar Bordoloi
- 2. P.W.2- Sri Senaram Saikia

Defence Witness-

Nil

Prosecution Side Exhibits-

Ext.1 - Seizure list

Ext.2- Complaint petition

Defence Side Exhibits-

Nil

(Pooja Sinha) Judicial Magistrate First Class Morigaon