

IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE,
MORIGAON

C. R. Case No: 548/17

U/s 323 IPC

State

Vs

1. Md. Ramjan Ali

S/o Md. Roushan Ali, R/o Nagabandha, P.S. Laharighat, Morigaon

2. Musstt. Jahura Khatun

W/o Md. Ramjan Ali, R/o Nagabandha, P.S. Laharighat, Morigaon

3. Md. Abu Hanifa

S/o md. Roushan Ali, R/o Nagabandha, P.S. Laharighat, Morigaon

4. Musstt. Taslima Khatun

W/o Md. Abu Hanifa, R/o Nagabandha, P.S. Laharighat, Morigaon

.....Accused persons

Present: Lohit Kumar Sarma, SDJM(S), Morigaon

Advocates appeared

For the State: Smti. Banti Devi

For the accused persons: Mr. A. Sharif

Evidence recorded on: 5.8.2019 and 6.11.2019

Argument heard on: 6.11.2019

Judgment delivered on: 6.11.2019

JUDGMENT

1. The informant Musstt. Ambiya Khatun had lodged an ejahar before Borsola outpost on 27.1.2016 stating inter alia that the accused persons on 26.1.2016 at about 5 pm, out of some personal grudges regarding clash amongst small kids, at the courtyard of Nur Islam the accused Ramjan Ali pushed backed the informant and snatched away her ear rings by tearing her ear. When the elder sister of the informant namely Asiya Khatun tried to save the informant then they beat her too. The whole incident took place because the accused Jahura Khatun hit the son of the informant. Hence the informant had filed this case.
2. The ejahar was received and registered as Laharighat PS case No. 43/16 u/s 354(A)/325/326/384/34 IPC.

3. The I/O after due investigation of the case submitted final report u/s 323 IPC against the accused persons, being non-cognizable to police.
4. Accordingly, CR 548/17 has been registered and summonses were issued against the accused persons. The accused persons appeared and entered trial.
5. Copy of the relevant documents were furnished to the accused persons.
6. On perusal of the case record sufficient ground u/s 323 IPC was found against the accused persons and accordingly the particulars of offences under the above sections were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.
7. The prosecution has examined only two witnesses. The statement of the accused persons u/s 313 CrPC was dispensed with as no any incriminating materials against them was found. The defence side adduced no evidence and pleaded for total denial.

POINTS FOR DETERMINATION:

- i) Whether the accused persons on 26.1.2016 at about 5 pm, voluntarily caused hurt to the informant and his family members and thereby committed an offence punishable under Sec. 323 IPC?
8. I have heard the oral arguments put forward by both the Counsels. I have also gone through the entire evidence available on record. My discussion and reasons for the decision are discussed below.

DISCUSSION, DECISION AND REASONS THEREOF:

9. PW1 Musstt. Ambia Khatun who is the informant deposed that the accused persons are known to her as they are her family members. The incident took place in 2016 at around 5 pm at her sister's house. She had verbal altercation with the accused persons regarding some minor matters and in push-backs she fell down and sustained injury. At present, the matter has been settled amicably with the accused persons hence she does not want to proceed with this case anymore. Ext-1 is the ejahar where she had put thumb impression. In cross-examination PW1 stated that she does not have any objection if the accused persons are acquitted of this case.
10. PW2 Musstt. Asma Khatun who deposed that the accused persons are known to her as they are her family members. The incident took place in 2016 nearby her house. She had verbal altercation and push-backs with the accused persons regarding some small kid's matter. At present, the matter has been settled amicably with the accused persons hence she does not want to proceed with this

case anymore. In cross-examination PW2 stated that she does not have any objection if the accused persons are acquitted of this case.

11. From the deposition of PW1 and PW2 it appears that there is nothing incriminating against the accused persons. PW1 who is the informant-cum-victim herself has not supported the case. In her deposition she stated that she had amicably settled the matter between themselves; hence she does not have any objection if the accused persons are acquitted of the case. Further PWs have not at all implicated the accused persons u/s 323 IPC.
12. In view of the above it is held that the prosecution has failed to establish the charges u/s 323 IPC against the accused persons. Accordingly the accused persons are acquitted of the alleged offences leveled against them and set at liberty.
13. Bail bond and affidavit furnished by the bailor is extended for a period of six months from today.

Given under my hand and seal of this Court on the 6th day of November, 2019 at Morigaon.

Lohit Kumar Sarma
SDJM(S), Morigaon

APPENDIX

Prosecution witnesses:

PW1- Musstt. Ambia Khatun (victim)

PW2- Musstt. Asma Khatun

Exhibits for the prosecution:

Ext-1 : Ejahar

Defence witness :

Nil

Exhibits for defence:

Nil

Lohit Kumar Sarma
SDJM(S), Morigaon