

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM**

**G.R. CASE NO.168/2017**

**State**

**Vs.**

- 1. Md. Faijul Haque  
Son of Late Abdul Khaleque.**
- 2. Md. Bulbul Islam  
Son of Md. Samsul Haque.**
- 3. Md. Badal Islam  
Son of Late Alimuddin.**
- 4. Md. Jalal Uddin  
Son of Late Abdul Khaleque  
All are residents of Vill-Tatikata  
PS- Moirabari  
Dist Morigaon, Assam.**

Present: Sri N.K. Das, AJS  
Chief Judicial Magistrate, Morigaon

For the state: Mrs. D. J. Nath, Asstt.P.P.

For the defense: Mr. R. Amin, Advocate

Charge framed: u/s 341/323/352/294/506(II)/34 of IPC  
Evidence recorded on: 12-6-2019 & 16-11-2019  
Statement of defense recorded on: 16-11-2019  
Argument heard on: 16-11-2019  
Judgment delivered on: 18-11-2019

**JUDGMENT**

**1.** The prosecution case in brief is that one Md. Ali Hussain lodged an ejahar in the Moirabari police station against the accused persons namely Md. Faijul Haque, Md. Bulbul, Md. Shariful Islam, Md. Badal Islam and Md. Jalal Uddin alleging therein that on 10.1.2017 at about 10.00 a.m. the informant and the accused persons were engaged in a verbal quarrel in connection with purchase of card board box from the accused persons which turn out to be damaged boxes. In the said quarrel the accused persons, armed with knife, restrained the informant and Md. Masud Hussain at moirabari vegetable market, pulled them and tore the shirt of the informant. During the quarrel, money, which were taken to purchase

goods, fell down, out of which Rs. 4200/- was lost and the remaining amount was found. Such loss was caused due to the action of the accused persons. The accused persons also beat Md. Mehtab Hussain at the place of the occurrence and also threatened to kill the informant.

**2.** The ejahar was received in the Moirabari police station on 11-1-2017 and a Moirabari police station case No.26/2017 under sections 147/148/341/323/427/506 of IPC was registered and one assistant sub inspector of police Sri Tarun Ch. Deka was assigned to take up the preliminary steps of the investigation and sub inspector Sri Bhupen Kalita, who was the Officer-In-Charge of the said police station, decided to complete the investigation. On completion of investigation, police submitted charge sheet against the accused persons namely Md. Faijul Haque, Md. Bulbul Islam, Md. Badal Islam and Md. Jalal Uddin under sections 341/352/294/506/34 IPC.

**3.** On appearance of the accused person before Court, copies of all relevant documents were furnished to the accused under section 207 CrPC. After hearing both sides, after perusing case record and on prima facie materials of offences under sections 341/323/352/294/506(II)/34 of IPC being found against the above mentioned accused persons, formal charge under sections 341/323/352/294/506(II)/34 of IPC was framed, which was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

**4.** Prosecution in support of its case examined 3 (three) witnesses namely Md. Ali Hussain, Md. Masud Hussain and Md. Mehtab Hussain, as PW-1, PW-2 and PW-3, respectively. The ejahar is exhibited as exhibit-1 and the signature of the informant is proved as exhibit-1(1). Examination of the accused persons under section 313 CrPC was dispensed with for lack of incriminating materials. Defense refused to adduce any evidence.

**5.** I have heard the arguments of both sides, perused the case record and considered the same. The points for determination are as under:

- i. Whether the accused persons on or about 10.1.2017 at about 10.00 a.m. at Moirabari vegetable market under Moibarabi P.S. of Morigaon district, in furtherance of their common intention, wrongfully restrained Md. Ali

Hussain and Md. Masud Hussain so as to prevent them from proceeding in any direction in which they had a right to proceed and thereby committed an offence punishable under section 341 read with section 34 of IPC?

- ii. Whether the accused persons on or about the same date, time and place, in furtherance of their common intention, voluntarily caused hurt to Md. Ali Hussain, Md. Masud Hussain and Md. Mehtab Hussain and thereby committed an offence punishable under section 323 read with section 34 of IPC??
- iii. Whether the accused persons on or about the same date, time and place, in furtherance of their common intention, assaulted or used criminal force to Md. Ali Hussain, Md. Masud Hussain and Md. Mehtab Hussain and thereby committed an offence punishable under section 352 read with section 34 of IPC??
- iv. Whether the accused persons on or about the same date, time and place, in furtherance of their common intention, uttered obscene words in a public place to the annoyance of Md. Ali Hussain, Md. Masud Hussain and Md. Mehtab Hussain and thereby committed an offence punishable under section 294 read with section 34 of IPC??
- v. Whether the accused persons on or about the same date, time and place, in furtherance of their common intention, threatened to kill Md. Ali Hussain with intent to cause alarm to them and thereby committed an offence punishable under section 506(II) read with section 34 of IPC??

**Discussion of evidence, decision and reasons therefor:**

**6.** The informant as well as alleged victim Md. Ali Hussain is examined as PW-1. He deposed that the incident took place about two years ago. He further deposed that the matter has already been settled amicably with the accused persons at the intervention of the villagers. He does not want to proceed further with the case. PW-1 exhibited the ejahar as Ext.1.

**7.** PW-2, Md. Masud Hussain and PW-3, Md. Mehtab Hussain on their examination deposed that the informant Md. Ali Hussain is their brother and the incident took place at about two years back. They further stated that the matter

has been amicably settled with the accused persons and does not want to proceed further with the case.

**8.** In view of the deposition of the key witness, the prosecution side did not proceed further to summon and examine the remaining witnesses as their evidence is not likely to improve the prosecution case and closed the prosecution evidence and perhaps rightly so.

**9.** We have seen that there is absolutely nothing on record against the accused persons to implicate them with the alleged offences. The key witness failed to implicate the accused persons with the alleged offences.

**10.** Therefore, the points for determination are answered in the negative.

**11.** The prosecution has failed to prove the case against the accused persons. As such, the accused persons are found not guilty and acquitted of the offences u/s 341/323/352/294/506(II)/34 of IPC. They are set at liberty forthwith. Their bail bonds are extended for a period of six months from today in view of section 437A of CrPC.

**12.** The judgment is pronounced in open Court and given under my hand and seal on this 18<sup>th</sup> day of November, 2019 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

**APPENDIX**

**(A) PROSECUTION EXHIBITS:**

Ext.-1: Ejahar

Ext.-1(1): Signature of Md. Ali Hussain

**(B) DEFENCE EXHIBITS**

None

**(C) EXHIBITS PRODUCED BY WITNESSES**

None

**(D) COURT EXHIBITS**

None

**(E) PROSECUTION WITNESSES**

P.W.-1: Md. Ali Hussain

P.W.-2: Md. Masud Hussain

P.W.-3: Md. Mehtab Hussain

**(F) DEFENCE WITNESSES**

None

**(G) COURT WITNESSES**

None

Chief Judicial Magistrate, Morigaon