

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM

G.R. CASE NO.602/2018

State

Vs.

- 1. Md. Ibrahim Ali
Son of Md. Kajimuddin**
 - 2. Md Ismail Ali
Son of Md. Kajimuddin**
 - 3. Md Jakir Hussain
Son of Md Kajimuddin**
- All are residents of village: Kuranibori
P.S.- Mayong,
District- Morigaon, Assam**

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

For the state: Mrs. A. Kakati, Addl. P.P.
For the defence: Md. J.A. Bhutto, Advocate

Charged framed u/s: 447/341/323/325/34 of IPC
Evidence recorded on: 25-11-2019
Argument heard on: 25-11-2019
Judgment delivered on: 26-11-2019

JUDGMENT

1. The prosecution case in brief is that one Musstt. Khateman Nessa lodged an ejahar in the Mayong police station against the accused persons namely Md. Ibrahim Ali, Md. Ismail Ali, Md. Jakir Hussain and Musstt. Nirola Khatun alleging therein that on 9-3-2018 at about 10.00 a.m., the aforementioned accused persons, armed with dao, bamboo stick, dagger etc. illegally entered on to the land belonging to the informant and forcefully started constructing a house. When the aforementioned informant protested, the accused persons gherawed her, accused Md. Ibrahim Ali beat her with bamboo stick, accused Md. Ismail Ali inflicted dao blow on her head and thereby caused severe injuries on several parts of her body. While the informant was so being beaten by the accused persons, Md. Mohibul Islam, who is the son of the informant, Md. Shorifuddin, who is

the nephew of the informant and Musstt. Khalida Khatun, who is the niece of the informant came for the rescue of the informant. However, the accused persons beat them also causing severe injuries on their persons.

2. The ejahar was received in the Mayong police station on 9-3-2018 and a Mayong police station case No.98/2018 under sections 447/341/325/326/34 IPC was registered and one sub inspector of police Sri Hemanta Bhuyan was assigned to investigate the case by the Officer-in-Charge of the said police station. On completion of investigation, police submitted charge sheet against the accused persons namely Md. Ibrahim Ali, Md. Ismail Ali and Md. Jakir Hussain under sections 447/341/323/325/34 IPC.

3. On appearance before court copies of all relevant documents were furnished to the accused persons under section 207 CrPC. After hearing both sides, after perusing case record and on prima facie materials of offences under sections 447/341/323/325/34 IPC being found against the above mentioned accused persons, formal charge under sections 447/341/323/325/34 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 4 (four) witnesses namely Musstt. Khateman Nessa, Musstt. Khaleda Khatun, Md. Mohibul Islam and Md. Shorifuddin, as PW-1, PW-2, PW-3 and PW-4, 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 side refused to adduce any evidence.

5. I have heard the arguments of Mrs. Alakananda Kakati, learned APP as well as the argument of Md. Julfikar Ali Bhutto, learned defence counsel. I have also perused the case record and considered the same. The points for determination are as under:

- i. Whether the accused persons, on or about 9-3-2018 at about 10.00 a.m. at village Kuranibori, under Mayong police station of Morigaon district, in furtherance of their common intention, entered on to the land belonging to Musstt. Khateman Nessa with intent to commit an offence or to intimidate, insult or annoy Musstt. Khateman Nessa, Md. Mohibul Islam, Md. Sarifuddin and Musstt. Khalida Khatun and thereby committed an offence punishable under section 447 IPC read with section 34 IPC?

- ii. Whether the accused persons on or about same date, time and place, in furtherance of their common intention, wrongfully restrained Musstt. Khateman Nessa, Md. Mohibul Islam, Md. Sarifuddin and Musstt. Khalida Khatun, 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 IPC read with section 34 of the IPC?
- iii. Whether the accused persons on or about same date, time and place, in furtherance of their common intention, voluntarily caused hurt to Musstt. Khateman Nessa, Md. Mohibul Islam, Md. Sarifuddin and Musstt. Khalida Khatun, and thereby committed an offence punishable under section 323 IPC read with section 34 of the IPC?
- iv. Whether the accused persons on or about same date, time and place, in furtherance of their common intention, voluntarily caused grievous hurt to Musstt. Khateman Nessa, Md. Mohibul Islam, Md. Sarifuddin and Musstt. Khalida Khatun, and thereby committed an offence punishable under section 325 IPC read with section 34 of the IPC?

Discussion of evidence, decision and reasons therefor:

6. The witnesses in their depositions have not supported their case and did not implicate the accused persons with the offences alleged. They deposed that the matter has already been amicably settled amongst them at the intervention of the local villagers. According to the witnesses the case was lodged due to misunderstanding and as such, they no longer want to proceed with the case.

7. It is seen that there is absolutely nothing in the evidence of witnesses against the accused persons to implicate them with the alleged offences. The key witnesses did not implicate the accused persons with the alleged offences. In view of the deposition of the witnesses, the prosecution side did not proceed further to summons 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.

8. For the aforesaid reasons and discussion the points for determination are answered in the negative.

9. The prosecution has failed to prove the case against the accused persons. As such, the accused persons are acquitted of the offences under sections 447/341/323/325/34 IPC alleged against them. They be set at liberty forthwith. Their bail bonds are extended for a period of six months from today in view of section 437A CrPC.

10. The judgment is pronounced in open court and given under my hand and seal on this 26th day of November, 2019 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

APPENDIX

(A) PROSECUTION EXHIBITS:

Ext.-1: Ejahar

Ext.-1(1): Signature of Musstt. Khateman Nessa

(B) DEFENCE EXHIBITS:

None

(C) EXHIBITS PRODUCED BY WITNESSES:

None

(D) COURT EXHIBITS:

None

(E) PROSECUTION WITNESSES:

P.W.-1: Musstt. Khateman Nessa

P.W.-2: Musstt. Khaleda Khatun

P.W.-3: Md. Mohibul Islam

P.W.-4: Md. Shorifuddin

(F) DEFENCE WITNESSES:

None

(G) COURT WITNESSES:

None

Chief Judicial Magistrate, Morigaon