

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, MORIGAON

GR 727 of 2016

U/S 341/294/323 of IPC, r/w Sec. 34 of IPC

State

Vs

- 1. Jakir Hussain**
- 2. Ibrahim Ali**
- 3. Ikramul Hussain**
- 4. Asraful Islam**

.....Accused Persons

Present: A. Shravan, A.J.S.

Evidence recorded on : 18-11-2019
Arguments heard on : 18-11-2019
Judgment delivered on : 18-11-2019

For the Prosecution : Assistant Public Prosecutor, L. Gohain.
For the Defence : Learned Counsel, Md. Rofiqul Islam.

Judgment

1. The case of the prosecution in brief is that the informant, Md. Habibur Rahman lodged an *ejahar* on 07.04.2016 before Laharighat P.S. stating *inter alia* that on 06.04.2016 when at about 9.30 p.m. when the informant was returning home from market, at that time the accused persons wrongfully restrained the informant and threatened him being armed with dagger, lathi, iron rod, etc. and verbally abused him with obscene languages. The accused persons also inflicted fist blows upon the informant and fell him on the ground and also injured him with dagger as a result of which the informant sustained severe injuries. Hence the case.

2. On receipt of the *ejahar*, the Officer in Charge of Laharighat Police Station registered Laharighat P.S. Case No-132/2016 under sections 143/341/294/506/325/326/379 of Indian Penal Code. The police after investigation

submitted charge sheet against the accused persons, Jakir Hussain, Ibrahim Ali, Ikramul Hussain and Asraful Islam under sections 341/294/323/34 of I.P.C.

3. On appearance of the accused persons, copies were furnished to them under section 207 of Cr.P.C. and after hearing and perusal and on finding prima facie materials u/s 341/294/323, r/w section 34 of I.P.C, against all the four accused persons, the offences are read over and explained to the accused persons to which they pleaded not guilty and claim to be tried.

4. The prosecution side to prove its case examined the informant/victim, Habibur Rahman as PW-1 and exhibited the *ejahar* as Ext-1. The statement of the accused persons under section 313 of Cr.P.C. was not recorded due to the absence of incriminating materials against them.

5. I have heard both the learned Assistant Public Prosecutor and the learned counsel for the accused persons.

6. **POINTS FOR DETERMINATION:-**

(i) Whether the accused persons in furtherance of common intention on 06.04.2016 at about 9.30 p.m. wrongfully restrained the informant/victim and thereby committed an offence u/s 341/34 of IPC?

(ii) Whether the accused persons in furtherance of common intention on the same day, same time and at the same place rebuked the informant/victim with obscene languages and thereby committed an offence u/s 294/34 of IPC?

(iii) Whether the accused persons in furtherance of common intention on the same day, same time and at the same place voluntarily caused hurt to the informant/victim and thereby committed an offence u/s 323/34 of IPC?

DISCUSSIONS, DECISIONS AND REASONS THEREOF:-

7. In the course of the evidence adduced by the prosecution, it emerged that the informant/victim, Habibur Rahman, who was examined as PW-1 did not support the prosecution story. He stated that there was a minor altercation between the accused persons and himself and the matter has already been reconciled with the accused persons with the intervention of the village people.

Further stated that he has no objection if the accused persons are acquitted of the case.

8. From the evidence of the prosecution witness, it appears that the informant/victim is not inclined to prosecute the accused persons. It has become apparent that there must have been some minor altercation between the informant/victim and the accused persons. However, the same appears to have been resolved. Thus, from the little evidence that has been brought before this court in the form of the statements made by the informant/victim, it is seen that no offence has been made out against the accused persons under any section of law. Situated thus, it is found that the prosecution has failed to implicate the accused persons of any offence.

ORDER

Considering the discussions made above and after all deliberations, it can be safely presumed that the prosecution has failed to drive home the guilt of the accused persons. **Hence, the accused persons, Jakir Hussain, Ibrahim Ali, Ikramul Hussain and Asraful Islam are acquitted of the offences under sections, 341/294/323, r/w section 34 of the Indian Penal Code and set them at liberty forthwith.**

Their Bail bonds are extended for a period of 6 (Six) months from today as per Section 437 A, Criminal Procedure Code.

Given in my hand and under the seal of this court on this 18th day of November, 2019.

Typed by Me:

Ayushree Shravan
Judicial Magistrate First Class, Morigaon

APPENDIX

Prosecution Witnesses:

PW-1: Habibur Rahman.

Defence Witnesses:

None.

Prosecution Exhibits:

Ext-1: *ejahar*.

Defence Exhibits:

None.

Judicial Magistrate First Class, Morigaon