

DISTRICT: MORIGAON

IN THE COURT OF ADDL. CHIEF JUDL.MAGISTRATE,

MORIGAON::::::::::ASSAM.

GR Case No. 1708 of 2014

U/S 341/352 of IPC.

PROSECUTOR: STATE OF ASSAM

-VS.-

ACCUSED: MD. FOZJUL HOQUE

Present : Smti. S. Acharyya, AJS,  
Addl. Chief Judicial Magistrate,  
Morigaon.

**APPEARANCE:**

For the State : Mr. P. Hazarika, Learned Addl. Public Prosecutor.  
For the accused person : Mr. R. Islam, Ld. Advocate.  
Offence explained on : 22.06.2017  
Evidence recorded on : 22.08.2017, 27.05.2019 & 29.11.2019  
Argument heard on : 29.11.2019.  
Judgment delivered on : 29.11.2019.

**J U D G M E N T**

**1.** The prosecution case in brief is that the informant Md. Abdul Goni lodged an ejahar stating inter alia that on 01.08.2014, at about 10.00 AM, the accused persons illegally entered into his house and tried to assault his son Md. Safiqul Islam. But other people broke the quarrel. Thereafter his son left for Jorhat for work. But the accused person surrounded his son at Dharamtul and assaulted him with *lathi*. On getting information, he went to the PO. But the accused tried to assault him to with daggar. Hence the case.

**2.** On receipt of the 'ejahar' at the police station, the same was registered as Jagiroad P.S. Case No. 261/2014 and the matter was investigated upon.

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3. After completion of investigation police filed a charge-sheet against the accused person Md. Fozjul Hoque under section 341/352 IPC.

4. On appearance of the accused person, he was allowed to go on bail. Relevant documents of the case were furnished to him. Upon perusal of materials on record and after hearing both sides, particulars of offence under section 341/352 IPC has been read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

5. The statement under section 313 Cr.P.C. of the accused person is recorded. He denied all the allegations.

6. I have heard the argument advanced by the learned counsels for both sides.

7. Upon hearing and on perusal of the record I have framed the following point for determination:

(i) Whether the accused person, 01.08.2014, at about 10.00 AM, at Silbheta village, under PS Jagiraod in the district of Morigaon, wrongfully restrained Md. Safiqul Islam and thereby committed an offense punishable U/S 341 of IPC?

(ii) Whether the accused person, on the same date, time and place used force to Md. Safiqul Islam and thereby committed an offense punishable U/S 352 of IPC?

#### **DISCUSSION, DECISIONS AND REASONS FOR THE DECISIONS:**

8. For convenience of discussion and for the sake of brevity, I am discussing both the points together.

9. PW1 Md. Abdul Goni, who is the informant inter alia deposed that the incident took place in the year 2014, at about 8.00/9.00 AM. That when his son Safiqul Islam was going for work, accused Forijul, Ajmal and Afia surrounded him. Other people broke the quarrel. That the accused persons Ajmal, Afia and Forijul assaulted his daughter Asia with hand. The PW1 was further examined. In his further evidence PW1 inter alia deposed that there was argument between them and the accused persons and presently he has no allegation against the accused person and he has no objection, if the accused person is acquitted.

**10.** PW2 Md. Safiqul Islam and PW4 Musstt. Asia Khatun, who are the victims inter alia deposed that there was argument between them and the accused person and presently they have no allegation against the accused person and they have no objection, if the accused person is acquitted.

**11.** PW3 Musstt. Musfia Khatun inter alia deposed that she knows nothing about the case.

**12.** I have carefully gone through the evidence on record. From the evidences it appears that though PW1 stated that accused person surrounded his son Safiqul Islam and assaulted his daughter Asia, but from the evidence of PW2 & PW4, who are the victims it appears that there was only argument between both the parties. Even PW1 in his further evidence stated that there was argument between both the parties. PW3 knows nothing about the case. Hence, I am of the opinion that the prosecution has failed to prove the case beyond all reasonable doubts.

**13.** In view of above discussion, the accused Md. Fozjul Hoque is acquitted of offence U/S 341/352 of IPC and set at liberty forthwith.

**14.** Bail bond shall remain in force for next six months.

**15.** The case is disposed of on contest.

**16.** Given under my hand and seal, today, the 29<sup>th</sup> day of November, 2019.

Dictated and corrected  
by me.

S. ACHARYYA  
Addl Chief Judicial Magistrate  
Morigaon.

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Addl Chief Judicial Magistrate  
Morigaon.

Dictation taken and  
transcribed be me.

Computer Typist.

APPENDIX:

Prosecution witness:

PW1- Md. Abdul Goni.

PW2- Md. Safiqul Islam

PW3- Musstt. Musfia Khatun

PW4- Musstt. Asia Khatun

Prosecution exhibits:

Nil.

Defence witness:

Nil.

Defence exhibit:

Nil.

Dictated and corrected  
by me.

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Addl Chief Judicial Magistrate  
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