

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, MORIGAON**

**GR 2043 of 2015**

**U/S 341/323 of IPC**

**State**

**Vs**

**Airat Ali**

**.....Accused Person**

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

Evidence recorded on : 08-07-2019, 17-01-2020

Arguments heard on : 17-01-2020

Judgment delivered on : 17-01-2020

For the Prosecution : Assistant Public Prosecutor, L. Gohain.

For the Defence : Learned Counsel, Mr. Shahab Uddin Sultan.

**Judgment**

**1.** The case of the prosecution in brief is that the informant, Md. Mansur Ali lodged an *ejahar* on 16.09.2015 before Bheloguri P.S. stating *inter alia* that on 15.09.2013 at about 9 p.m. the father of the informant, Hajrat Ali was called by the accused person at the courtyard of the house of Mokbul Ali and was physically assaulted with iron rod and sharp weapon. In consequence of the same, the father of the informant sustained injuries and had to be hospitalized. Hence the case.

**2.** On receipt of the *ejahar*, the Officer in Charge of Bheloguri Police Station registered Bheloguri P.S. Case No-60/2015 under sections 341/326/34 of Indian Penal Code. The police after investigation submitted charge sheet against the accused person, Md. Airot Ali under sections 341/323 of I.P.C.

**3.** On appearance of the accused person, copies were furnished to him under section 207 of Cr.P.C. and after hearing and perusal, formal charges under sections 341/323 of IPC was framed, which was read over and explained to him to which he has pleaded not guilty and claimed to be tried.

4. The prosecution side to prove its case examined Md. Mansur Ali as PW-1 and Sri Harzat Ali as PW-2. The statement of the accused person under section 313 of Cr.P.C. was not recorded due to the absence of incriminating materials against him.

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

6. **POINTS FOR DETERMINATION:-**

*(i) Whether the accused person on 15.09.2013 at about 9 p.m. wrongfully restrained the informant and the victim and thereby committed an offence u/s 341 of IPC?*

*(ii) Whether the accused person on the same day, same time and at the same place voluntarily caused hurt to the informant and the victim and thereby committed an offence u/s 323 of IPC?*

**DISCUSSIONS, DECISIONS AND REASONS THEREOF:-**

7. In the course of the evidence adduced by the prosecution, it emerged that the informant, Md. Mansur Ali, who was examined as PW-1 did not support the prosecution story. He stated that there was a minor altercation between the accused person and himself and the matter has already been reconciled with the accused person with the intervention of the village people. Further stated that he has no objection if the accused is acquitted of the case. PW-2, Hazrat Ali, the victim of this case also corroborated the same lines as was stated by PW-1.

8. Thus, from the little evidence that has been brought before this court in the form of the statements made by the informant and the victim, it is seen that no offence has been made out against the accused person under any section of law. Situated thus, it is found that the prosecution has failed to implicate the accused person of any offence.

**ORDER**

9. 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 person. **Hence, the accused person, Md. Airat Ali is acquitted of the offences under sections, 341/323 of the Indian Penal Code and set him at liberty forthwith.**

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

Given in my hand and under the seal of this court on this 17<sup>th</sup> day of January, 2020.

Typed by Me:

Ayushree Shravan  
Judicial Magistrate First Class, Morigaon

## **APPENDIX**

Prosecution Witnesses:

PW-1: Md. Mansur Ali

PW-2: Md. Hazrat Ali.

Defence Witnesses:

None.

Prosecution Exhibits:

Ext-1: *ejahar*.

Defence Exhibits:

None.

**Judicial Magistrate First Class, Morigaon**