

DISTRICT: MORIGAON

IN THE COURT OF ADDL. CHIEF JUDL. MAGISTRATE,

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

PRC Case No. 653 of 2018

U/S 447/323/34 of IPC

PROSECUTOR: STATE OF ASSAM

-VS.-

ACCUSED: (i) MD. HAMIDUL ISLAM

(II) MD. RAFIQUUL ISLAM

(III) MD. RASIDUL ISLAM

(IV) MUSST. FATEMA KHATUN

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

APPEARANCE:

For the State : Mr. P. Hazarika, Ld. Addl. Public Prosecutor.

For the accused person : Mr. A. Salam, Mr. A. Rahman and
Mrs. P. Bordoloi, Ld. Advocates.

Offence explained on : 25.09.2019.

Evidence recorded on : 09.01.2020.

Argument heard on : 09.01.2020.

Judgment delivered on : 09.01.2020.

J U D G M E N T

1. The prosecution case in brief is that the informant Musst. Hasen Banu lodged an ejahar stating inter alia that on 12.12.2017, at about 2.30 PM, the accused persons armed with stick, dao entered into the courtyard of the informant and assaulted her and when her son Taijul Hoque, husband Ramjan Ali and one neighbour Sakina Khatun tried to resist the accused persons, then the accused persons assaulted them too. Hence the case.

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- 2.** On receipt of the 'ejahar' at the police station, the same was registered as Mayong P.S. Case No. 404/2017 and the matter was investigated upon.
- 3.** After completion of investigation police filed a charge-sheet against the accused persons (i) Md. Hamidul Islam, (ii) Md. Rafiqul Islam, (iii) Md. Rasidul Islam and (iv) Musstt. Fatema Khatun under section 447/323/34 IPC.
- 4.** On appearance of the accused persons, they were allowed to go on bail. Relevant documents of the case were furnished to them. Upon perusal of materials on record and after hearing both sides, particular of offence under section 447/323/34 IPC has been read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.
- 5.** The prosecution in support of its case examined four witnesses. Whereas, the defence side has not examined any witness in support of its defence.
- 6.** The examination under section 313 Cr.P.C. of the accused persons is dispensed with as found not necessary.
- 7.** I have heard the argument advanced by the learned counsels for both sides.
- 8.** Upon hearing and on perusal of the record I have framed the following points for determination:
 - (i) Whether the accused persons, on 12.12.2017, at about 2.30 PM, at Kuranibori village under Mayong PS and Dist.-Morigaon in furtherance of common intention criminally trespassed into the house campus of informant Musstt. Hasen Banu and thereby committed an offense punishable U/S 447/34 of IPC?
 - (ii) Whether the accused persons, on the same date, time and place in furtherance of common intention voluntarily caused hurt to informant Musstt. Hasen Banu, Md. Taijul Hoque, Md. Ramjan Ali and Musstt. Sakina Khatun and thereby committed an offense punishable U/S 323/34 of IPC?

DISCUSSION, DECISIONS AND REASONS FOR THE DECISIONS:

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

10. PW1 Musstt. Hasen Basu, who is the informant cum victim, PW2 Md. Ramjan Ali, PW3 Musstt. Sakina Khatun and PW4 Md. Hussain Ahmed @ Tajjul Ali, who are the victims inter alia deposed that PW1 instituted this case out of misunderstanding and presently they have no allegation against the accused persons and they have no objection, if the accused persons are acquitted.

11. I have carefully gone through the evidence on record. From the evidence it appears that PW1, who is the informant cum victim, PW2, PW3 and PW4 who are the victims have not supported the prosecution case, as stated in the ejahar. In the result, there is no incriminating evidence against the accused persons.

12. In view of above discussion, the accused (i) Md. Hamidul Islam, (ii) Md. Rafiqul Islam, (iii) Md. Rasidul Islam and (iv) Musstt. Fatema Khatun are acquitted of offence U/S 447/323/34 of IPC and set at liberty forthwith.

13. Bail bond shall remain in force for next six months.

14. The case is disposed of on contest.

15. Given under my hand and seal, today, the 9th day of January, 2020.

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- Musstt. Hasen Basu

PW2- Md. Ramjan Ali

PW3- Musstt. Sakina Khatun

PW4- Md. Hussain Ahmed @ Taijul Ali

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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