

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM

SCR CASE NO.168/2017

State

Vs.

**Sri Punakon Patar
Son of Sri Someswar Patar
Resident of village- No.1 Manipur
P.S.- Morigaon,
District- Morigaon, Assam**

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

For the state: Mrs. A. Kakati, Asstt. P.P.

For the defense: Sri T. Boro & Mr. D.C. Das, Advocates

Offence explained: u/s 323 of IPC

Evidence recorded on: 6-3-2019

Argument heard on: 6-3-2019

Judgment delivered on: 6-3-2019

JUDGMENT

1. The prosecution case in brief is that one Sri Dharani Patar lodged an ejahar in the Morigaon police station against the accused Sri Punakon Patar alleging therein that on 15-7-2011, at about 6.00 p.m., the accused, armed with a dao inflicted a dao blow on the left hand of the aforementioned informant and also threatened to kill him. The accused did so in connection with a dispute regarding constitution of a committee of Manipur Tribal Sangha.

2. The ejahar was received in the Morigaon police station on 15-7-2011 and a Morigaon police station case No.125/2011 under sections 341/324/506 IPC was registered and one assistant sub inspector of police Sri P. Chamuah was assigned to take the preliminary steps of the investigation and another sub inspector of police Sri Budheswar Borah, who was the Officer-in-Charge of the said police station, decided to complete the investigation himself. On completion of investigation, police submitted final report against the accused under section 323 IPC as the said offence was non- cognizable to police. In view of submission of FR under section 323 of IPC, the present complaint was registered and the accused was summoned.

3. On appearance before court copies of all relevant documents were furnished to the accused person under section 207 CrPC. Particulars of offence under section 323 of IPC were explained to the accused person, to which he pleaded not guilty and claimed to be tried.

4. Prosecution in support of its case examined 1 (one) witnesses namely Sri Dharani Patar, as PW-1, who is the informant as well as the alleged victim of the case. The ejahar is exhibited as exhibit-1 and the signature of the informant is proved as exhibit-1(1). Examination of the accused person under section 313 CrPC was dispensed with for lack of incriminating materials. Defense side refused to adduce any evidence.

5. I have heard the argument of both sides, perused the case record and considered the same. The point for determination is as under:

- i. Whether the accused person on or about 15.7.2011 at about 6.00 p.m. at village Manipur, under Morigaon police station, voluntarily caused hurt to Sri Dharani Patar and thereby committed an offence punishable under section 323 of IPC?

Discussion of evidence, decision and reasons therefor:

6. The witness who is the informant as well as the alleged victim of the case in his deposition has not supported his case and did not implicate the accused person with the offence alleged. The witness has stated that the matter has already been amicably settled between them at the intervention of the villagers. The witness has further stated that the case was filed due to misunderstanding and he no longer wants to proceed with the case.

7. It is seen that there is absolutely nothing on record against the accused person to implicate him with the alleged offence. The key witness did not implicate the accused person with the alleged offence. In view of the deposition of the witness, the prosecution side did not proceed further to summon 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 sole point for determination is answered in the negative.

9. The prosecution has failed to prove the case against the accused person. As such, the accused person is found not guilty and accordingly acquitted of offence under section 323 of IPC alleged against him. He be set at liberty forthwith. His bail bond shall remain in force for six months from today in view of section 437A of CrPC.

10. The judgment is pronounced in open court and given under my hand and seal on this 6th day of March, 2019 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

APPENDIX

(A) PROSECUTION EXHIBITS:

Ext.-1: Ejahar

Ext.-1(1): Signature of Sri Dharani Patar

(B) DEFENCE EXHIBITS

None

(C) EXHIBITS PRODUCED BY WITNESSES

None

(D) COURT EXHIBITS

None

(E) PROSECUTION WITNESSES

P.W.-1: Sri Dharani Patar

(F) DEFENCE WITNESSES

None

(G) COURT WITNESSES

None

Chief Judicial Magistrate, Morigaon