

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, MORIOGAON, ASSAM.

GR Case No. 1602/15

U/S 341/352/506 IPC

STATE OF ASSAM

-VS-

MD. JAKIR HUSSAIN.

S/O MD. SIRAJUL HOQUE.

R/O SILBHETA, P.S. JAGIROAD.

DIST. MORIGAON, ASSAM

..... ACCUSED PERSON.

PRESENT: -

SMTI. ANAMIKA BARMAN, LL.M., A.J.S.

JUDICIAL MAGISTRATE FIRST CLASS

MORIGAON, ASSAM.

FOR THE STATE: -

MR. M. ISLAM, LEARNED A.P.P.

FOR THE ACCUSED: -

MR. J. A. BHUTTO, LEARNED ADVOCATE.

EVIDENCE RECORDED ON: - 03.10.19.

ARGUMENT HEARD ON: - 03.10.19.

JUDGMENT DELIVERED ON: - 03.10.19.

JUDGMENT

1. The brief of the prosecution story is that one Md. Amrajul Hoque filed a complaint petition before the Ld. Chief Judicial Magistrate, Morigaon on 10.07.15 which

was forwarded to the Officer-in-Charge, Jagiroad P.S. on the same date for investigation. The informant filed the complaint petition alleging inter alia that on 08.07.15, at about 06:00 pm, the accused persons, namely, Md. Jakir Hussain, Md. Abdul Ali, Md. Abdul Malek, Md. Nur Hussain and Md. Maqbul Hussain assaulted the informant over a dispute relating to land boundary. However, the informant was rescued by the nearby people. Hence, the case.

2. On receipt of the ejahar, Jagiroad P.S. Case No.284/15 u/s 341/323/307/506/34 IPC was registered and investigated into. On completion of the investigation, I/O filed charge-sheet against the accused person, Md. Md. Jakir Hussain u/s 341/352/506 of IPC.

3. On receipt of summons the accused person appeared before the court and copies of relevant documents were furnished to the accused person under section 207 of Cr. P.C. On finding sufficient prima facie materials to presume that the accused person had committed offence u/s 341/352/506 of IPC, particulars of offence under the said sections were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

4. In support of its case, prosecution examined only 1 (one) witness. After closure of prosecution evidence, statement U/S 313 of Cr.P.C. was dispensed with as found not necessary. Defence declined to adduce evidence. Heard the arguments put forward by the learned Counsels for both the sides as well as gone through the evidences available on record.

5. **Point for determination.**

- I. *Whether on 08.07.15, at about 06:00 pm, the accused person wrongfully restrained the informant/victim Md. Amrajul Hoque, and hence committed an offence u/s 341 IPC?*
- II. *Whether on same date, time and place, the accused person assaulted or used criminal force to the informant/victim, and thereby committed an offence u/s 352 IPC?*
- III. *Whether on the same date, time and place, the accused person committed criminal intimidation by threatening the informant/victim to cause injury to his person, and hence committed an offence u/s 506 IPC*

Discussion, Decision and Reasons thereof:-

6. In this case prosecution examined only 1 (one) witness. The victim/informant Md. Amrajul Hoque was examined as PW-1 to prove the charges against the accused person.
7. Before going to decide the points for determination, let me describe the evidence in brief. *In his examination-in-chief* PW-1/informant/victim, Md. Amrajul Hoque, deposed that he is the informant and he knows the accused persons standing on the dock as the accused person is his neighbor. He further deposed that about 4-5 (four to five) years prior to the date of his deposition, at about 03:00 pm, near his house, he had a verbal altercation with the accused person over some matter and he filed the instant case in that misunderstanding. After the incident the matter was amicably settled between both the parties by the villagers. At present he has a good and peaceful relation with the accused person.
8. *During his cross examination*, PW-1 stated that he does not have any objection if the accused person is acquitted.
9. On perusal of evidence recorded by the prosecution side, it appears that the PW-1/victim/informant is not willing to proceed with the case further and he stated that he had filed the case out of some misunderstandings. He does not have any objection if the accused person is acquitted.
10. This being so there is nothing in the evidence of prosecution warranting conviction of the accused person u/s 341/352/506 of IPC as the evidence of the prosecution witness is found to be not acceptable and reliable.
11. Considering the above, I came to the safe conclusion that the prosecution has failed to prove the charge u/s 341/352/506 IPC against the accused person beyond reasonable doubt. Accordingly, the accused person is found not guilty of the offences charged against him and is acquitted.

ORDER

12. In the light of the above decision, the accused person is acquitted of the charges under section 341/352/506, IPC and set at liberty forthwith.

13. The bail bond of the accused person is extended for a period of 6 (six) months as per section 437-A, CrPC.

14. The judgment is delivered in the open Court in presence of the accused person and his learned Counsel.

15. Given under my hand & seal of this Court and delivered in the open Court on this 3rd day of October, 2019.

Typed by me.

(ANAMIKA BARMAN)

Anamika Barman, AJS, Assam.

**Judicial Magistrate First Class
Morigaon, Assam**

APPENDIX

PROSECUTION WITNESSES:

1. P.W.-1, MD. AMRAJUL HOQUE.

DEFENCE WITNESSES:

NIL

EXHIBITED DOCUMENTS:

NIL

**(ANAMIKA BARMAN)
JMFC, Morigaon
Assam**