

**IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE,**  
**MORIGAON**

G. R. Case No: 2747/17

U/s 341/352/506/34 IPC

**State**

**Vs**

**1. Md. Aman Ullah**

S/o Md. Abdul Rashid, R/o Tatikata Pathar, P.S. Moirabari, Morigaon

**2. Md. Ferdous Ahmed @ Rahman**

S/o Md. Abdul Rashid, R/o Tatikata Pathar, P.S. Moirabari, Morigaon

**3. Md. Salim Ullah**

S/o Md. Abdul Rashid, R/o Tatikata Pathar, P.S. Moirabari, Morigaon

**4. Md. Sariful Islam @ Papu**

S/o Md. Abdul Rashid, R/o Tatikata Pathar, P.S. Moirabari, Morigaon

**5. Md. Abdul Rashid**

S/o Late Afsar Ali, R/o Tatikata Pathar, P.S. Moirabari, Morigaon

.....Accused persons

**Present: Lohit Kumar Sarma, SDJM(S), Morigaon**

**Advocates appeared**

For the State: Ms. B. Devi

For the accused person: Mr. R. Amin

Evidence recorded on: 21.10.2019

Argument heard on: 21.10.2019

Judgment delivered on: 21.10.2019

**JUDGMENT**

1. The informant Md. Rafiqul Islam had lodged an ejahar before Moirabari P.S. on 28.10.2017 stating inter alia that on 26.10.2017 at about 10 pm a clash occurred at the shop of accused while buying "paan" and accused Aman Ullah and Salim Ullah when the nearby people broke the fight. After which the accused Ferdous, Abdul and Papu came in a vehicle and caused grievous injuries to Rafiqul by beating with blows of punches, kicks etc. The accused persons also threatened Rafiqul with

- dire consequences. An amount of Rs.2620 which was supposed to be paid to accused Aman Ullah for Rafiqul's debt in his shop was snatched away by one namely Faruque. Hence the informant had filed this case.
2. The ejahar was received and registered as Moirabari PS case No. 416/17 u/s 325/506/379/34 IPC.
  3. The I/O after due investigation of the case submitted charge sheet u/s 341/352/506/34 IPC against the accused persons.
  4. Copy of the relevant documents were furnished to the accused persons.
  5. During trial, particulars of offences u/s 341/352/506/34 were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.
  6. The prosecution has examined one witness i.e. the informant-cum-victim. The statement of the accused persons u/s 313 CrPC was recorded. The defence side adduced no evidence and pleaded for total denial.

**POINTS FOR DETERMINATION:**

- i) Whether the accused persons on 26.10.2017 at about 10 pm in furtherance of their common intention, wrongfully restrained the informant Md. Rafiqul Islam by voluntarily obstructing him so as to prevent him from proceeding in any direction in which he had a right to proceed and thereby committed an offence punishable under Sec. 341/34 IPC?
  - ii) Whether the accused persons on 26.10.2017 at about 10 pm in furtherance of their common intention assaulted or used criminal force to the informant and thereby committed an offence punishable under Sec. 352/34 IPC?
  - iii) Whether the accused persons on 26.10.2017 at about 10 pm in furtherance of their common intention threatened the informant with dire consequences with intent to cause alarm to him and thereby committed an offence punishable under section 506/34 IPC?
7. I have heard the oral arguments put forward by both the Counsels. I have also gone through the entire evidence available on record. My discussion and reasons for the decision are discussed below.

**DISCUSSION, DECISION AND REASONS THEREOF:**

8. PW1 Md. Rafiqul Islam who is the informant-cum-victim deposed that he filed this case and the accused persons are known to him. The incident took place at the market of Moirabari in the year 2017. On the day of incident they had some verbal altercations. At present, the villagers have amicably settled the matter between the parties. At the time of incident, PW1 filed this case out of misunderstanding hence he does not want to proceed with this case anymore. Ext-1 is the ejahar and Ext-1(1) is his signature. In cross-examination PW1 stated that he does not have any objection if the accused persons are acquitted of this case.
9. From the deposition of PW1 it appears that there is nothing incriminating against the accused persons. PW1 who is the informant-cum-victim himself has not supported the case. In his deposition he stated that he had some verbal altercation with the accused persons and then due to misunderstanding he filed the case and now they have been living amicably and hence PW1 i.e. victim does not have any objection if the accused persons are acquitted of the case. Further PW1 has not at all implicated the accused persons u/s 341/352/506/34 IPC.
10. In view of the above I am of the opinion that the prosecution has failed to establish the charges u/s 341/352/506/34 IPC against the accused persons. Accordingly the accused persons namely **Aman Ullah, Ferdous Ahmed @ Rahman, Salim Ullah, Sariful Islam @ Papu and Abdul Rashid** are acquitted of the alleged offences labelled against them and set at liberty forthwith.
11. Bail bonds and affidavits submitted by the bailor are extended for a period of six months as per amended Cr.P.C.
12. Given under the hand and seal of this court on the 21<sup>st</sup> day of October, 2019 at Morigaon.

**( Lohit Kumar Sarma )**  
**Sub Divisional Judicial Magistrate(S),**  
**Morigaon**

**APPENDIX**

**Prosecution witnesses:**

PW1- Md. Rafiqul Islam (Informant-cum-victim)

**Exhibits for the prosecution:**

Nil

**Defence witness :**

Nil

**Exhibits for defence:**

Nil

Lohit Kumar Sarma  
SDJM(S), Morigaon