

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, MORIGAON, ASSAM**

**G.R. CASE NO.278/2019  
(PRC No.430/2019)**

**State**

**Vs.**

**Sri Keshab Nath @ Sarupa  
Son of Sri Amrit Nath  
Resident of village: Bagariguri  
P.S.- Morigaon,  
District- Morigaon, Assam**

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

For the state: Mr. D.J. Nath, Asstt. P.P.  
For the defense: Mr. N. Medhi, Advocate

Offences explained: u/s 447/323/427 of IPC  
Evidence recorded on: 23-10-2019  
Argument heard on: 23-10-2019  
Judgment delivered on: 23-10-2019

**JUDGMENT**

**1.** The prosecution case in brief is that one Sri Soneswar Nath lodged an ejahar in the Morigaon police station against the accused persons namely Sri Surapa @ Keshab and Sri Amrit Ch. Nath alleging therein that on 29-1-2019, when the informant returned home after plying his rickshaw, he saw that a commotion was going on for which he asked the accused persons to keep quite. However, the accused Sri Surapa @ Keshab engaged in verbal quarrel with him and later, at the instigation of accused Sri Amrit Ch. Nath, the accused Surapa @ Keshab beat the informant with his hand. Not satisfied with such beating, the accused Sri Surapa @ Keshab again inflicted blows on upper back and hands of the informant with bamboo sticks and by using a spade, which was lying nearby, inflicted a spade blow on his head. However, when the informant prevented the blow with his right hand, the spade fell on his right hand and two of his fingers of right hand sustained cut injury and thereby he sustained severe injuries. Prior to

the said occurrence also, the aforementioned two accused persons, without any rhyme and reason, beat him. After the occurrence on 29-1-2019, both the accused persons came to his house and damaged the wall and roof of his house.

**2.** The ejahar was received in the Morigaon police station on 30-1-2019 and a Morigaon police station case No.86/2019 under sections 326/427/34 IPC was registered and one sub inspector of police Sri Anil Kr. Das was assigned to investigate the case by the Officer-in-Charge of the said police station. On completion of investigation, police submitted charge sheet against the accused Sri Keshab Nath @ Sarupa under sections 447/323/427 of IPC.

**3.** On appearance of the accused person before court copies of all relevant documents were furnished to the accused person under section 207 CrPC. Particulars of offences under sections 447/323/427 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) witness namely Soneswar Nath, who is the informant cum alleged victim of the case, as PW-1. 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 incriminating materials. Defense side refused to adduce any evidence.

**5.** I have heard the argument of Mr. Dhruvajyoti Nath, learned APP and the argument of Mr. Nitu Medhi, learned defence counsel, perused the case record and considered the same. The following points for determination are formulated:

- i. Whether the accused person on or about 29-1-2019, in the evening hours, at village Bagariguri, under Morigaon police station of Morigaon district, entered into the residential compound of Sri Soneswar Nath with intent to commit an offence or to intimidate, insult or annoy Sri Soneswar Nath and thereby committed an offence punishable under section 447 of the IPC?
- ii. Whether the accused person, on or about the same date, time and place, voluntarily caused hurt to Sri Soneswar Nath, and thereby committed an offence punishable under section 323 of the IPC?

- iii. Whether the accused person, on or about the same date, time and place, committed mischief by damaging the wall and roof of the house of Sri Soneswar Nath, to the amount of fifty rupees and upward and thereby committed an offence punishable under section 427 of IPC?

**Discussion of evidence, decision and reasons therefor:**

**6.** The witness in his deposition has not supported his own case and did not implicate the accused person with the alleged offences. The witness deposed that the matter has already been amicably settled between them at the intervention of the local villagers. According to the witness, the case was filed due to misunderstanding and as such, he no longer wants to proceed with the case.

**7.** It is seen that there is absolutely nothing in the evidence of PW to implicate the accused with the alleged offences. The key witness who is the informant cum alleged victim of the case did not implicate the accused person with the alleged offences. In view of the deposition of the witnesses, 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 reason and discussion the points for determination are 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 offences under sections 447/323/427 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 23<sup>rd</sup> day of October, 2019 at Morigaon, Assam.

Chief Judicial Magistrate, Morigaon

**APPENDIX**

- (A) PROSECUTION EXHIBITS:**  
Ext.-1: Ejahar  
Ext.-1(1): Signature of Sri Soneswar Nath
- (B) DEFENCE EXHIBITS**  
None
- (C) EXHIBITS PRODUCED BY WITNESSES**  
None
- (D) COURT EXHIBITS**  
None
- (E) PROSECUTION WITNESSES**  
P.W.-1: Sri Soneswar Nath
- (F) DEFENCE WITNESSES**  
None
- (G) COURT WITNESSES**  
None

Chief Judicial Magistrate, Morigaon