

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

**G.R. Case No. 276/18**

**U/S 447/341/325/34 IPC**

**STATE OF ASSAM**

**-VS-**

**1. MD. HASEN ALI, S/O LT. TAZUDDIN.**

**2. MUSST. MANUWARA KHATUN, D/O MD. HASEN ALI.**

**BOTH R/O SOLMARI, P/S BHELOWGURI.**

**DIST. MORIGAON, ASSAM**

**.....ACCUSED PERSONS.**

**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. A. U. SIDDIQUE, LEARNED ADVOCATE.**

**EVIDENCE RECORDED ON: - 31.10.2019.**

**ARGUMENT HEARD ON: - 31.10.2019.**

**JUDGMENT DELIVERED ON: - 31.10.2019.**

**JUDGMENT**

1. The brief of the prosecution story is that one Md. Abdul Sattar filed an FIR before the Officer-in-Charge, Bhelowguri P.S. on 19.03.18, alleging inter alia that on that day itself, at about 09.00 am, at the instruction of the accused Md. Abdul Mutaleb

and Md. Sadiqul Islam, the accused Md. Hasen Ali and his wife, out of previous grudge, wrongfully entered into the courtyard of the informant with sharp weapons and sticks in their hands and wrongfully restrained the victim/wife of the informant, namely, Musstt. Najima Khatun. Thereafter, the wife of accused Hasen Ali floored the victim by pulling her hair and assaulted her. The accused Hasen Ali struck the victim with sharp weapon on her head thereby causing injuries to the victim. Hence, the case.

2. On receipt of the ejahar, Bhelowguri P.S. Case No. 12/18 u/s 447/341/325/34 IPC was registered and investigated into. On completion of the investigation, I/O filed charge-sheet against the accused persons Md. Hasen Ali and his wife Musstt. Manuwara Khatun u/s 447/341/325/34 of IPC.

3. On receipt of summons the accused persons appeared before the court and copies of relevant documents were furnished to the accused persons under section 207 of Cr. P.C. On finding sufficient prima facie materials to presume that the accused persons had committed offences u/s 447/341/325/34 of IPC, charge under the said sections was framed and the same was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

4. In support of its case, prosecution examined only 2 (two) witnesses. In view of the evidence recorded the Ld. APP verbally prayed to close PWs as the prosecution declined to adduce further evidence. After closure of prosecution evidence, statement under section 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. **Points for determination.**

*I. Whether on 19.03.2018, at about 09.00 am, at Solmari under Bhelowguri PS, the accused persons, in furtherance of their common intention, committed criminal trespass by entering into the courtyard of the informant Md. Abdul Sattar, which was also in the possession of the informant, with the intention to commit an offence, and hence committed an offence u/s 447/34 IPC?*

*II. Whether on the same date, time and place, the accused persons, in furtherance of their common intention, wrongfully restrained the*

*victim/wife of the informant Musstt. Najima Khatun, and hence committed an offence u/s 341/34, IPC?*

*III. Whether on the same date, time and place, the accused persons, in furtherance of their common intention, voluntarily caused grievous hurt to the victim, and hence committed an offence u/s 325/34, IPC?*

**Discussion, Decision and Reasons thereof:-**

6. In this case prosecution examined only 2 (two) witnesses. The informant Md. Abdul Sattar was examined as PW-1 and the victim Musstt. Najima Khatun was examined as PW-2 to prove the charges against the accused persons.

7. Before going to decide the points for determination, let me describe the evidence in brief. *In his examination-in-chief PW-1/informant*, Md. Abdul Sattar, deposed that he is the informant and he knows the accused persons standing on the dock as the accused persons are his neighbours. He further deposed that he had filed this case about 2 (two) years prior to the date of his deposition. On the date of the incident he and his wife/victim Musstt. Najima Khatun had a verbal altercation with the accused persons regarding their agricultural land and PW-1 filed the instant case in that misunderstanding.

8. *During her cross-examination*, PW-1 stated that he does not have any objection if the accused persons are acquitted.

9. *In her examination-in-chief PW-2/victim*, Musstt. Najima Khatun, deposed that the informant is her husband and she knows the accused persons standing on the dock as they are her neighbours. She further deposed that this case had been filed about 2 (two) years prior to the date of her deposition. On the date of the incident, she and her husband/PW-1/informant had a verbal altercation with the accused persons regarding their agricultural land and PW-1 filed the instant case in that misunderstanding.

10. *During her cross-examination*, PW-2 stated that she does not have any objection if the accused persons are acquitted.

11. On perusal of evidence recorded by the prosecution side, it appears that the PW-1/informant and the PW-2/victim are not willing to proceed with the case further and they stated that the case was filed out of some misunderstandings. Now they do not have any objection if the accused persons are acquitted.

12. In view of the evidence recorded the prosecution declined to adduce further evidence. This being so there is nothing in the evidence of the prosecution warranting conviction of the accused persons u/s 447/341/325/34 IPC as the evidence of the prosecution witnesses is found to be not acceptable and reliable.

13. Considering the above, I came to the safe conclusion that the prosecution has failed to prove the charge u/s 447/341/325/34 IPC against the accused persons beyond reasonable doubt. Accordingly, the accused persons are found not guilty of the offences charged against them and are acquitted.

### **ORDER**

14. In the light of the above decision, the accused persons are acquitted of the charge under section 447/341/325/34 IPC and set at liberty forthwith.

15. The bail bonds of the accused persons are extended for a period of 6 (six) months as per section 437-A, CrPC.

16. Given under my hand & seal of this Court and delivered in the open Court on this 31<sup>st</sup> day of October, 2019.

Dictated and corrected by me

**(ANAMIKA BARMAN)**

(Miss. Anamika Barman)

Judicial Magistrate First Class, Morigaon

**Judicial Magistrate First Class**

**Morigaon, Assam**

**APPENDIX**

**PROSECUTION WITNESSES:**

1. P.W.-1, MD. ABDUL SATTAR.
2. P.W.-2, MUSST. NAJIMA KHATUN.

**DEFENCE WITNESSES:**

NIL

**EXHIBITED DOCUMENTS:**

NIL

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