

**IN THE COURT OF THE SUB-DIVISIONAL JUDICIAL MAGISTRATE (M),**

**AT GOHPUR, SONITPUR**

**G.R.No. – 96/2015**

**U/S.: 341/324 of I.P.C.**

**S T A T E**

**-Versus-**

**Sri Ranuj Mili.....accused person**

**Present: Smt. Pooja Sinha, AJS,  
Sub-Divisional Judicial Magistrate (M)  
Gohpur**

**Advocate appearing for the State : Smt. Barnali Chetia**  
**Advocate appearing for the Accused : Sri Sanjit Das**  
**Dates of recording evidence : 23.07.2018, 15.09.2018,  
11.10.2018, 16.11.2018,  
15.12.2018, 17.01.2019,  
15.02.2019 & 20.03.2019**  
**Date of hearing argument : 20.05.2019**  
**Date of delivering Judgment : 20.05.2019**

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**JUDGMENT**

- 1. The case of the prosecution in brief is that,** on 19.04.2015 at about 8 p.m. near Na-bil one Ranjan Hazarika was wrongfully restrained and was attacked with wooden planks by Tilika Pegu and one other. That, the persons also snatched away cash of Rs.18,500/- and took away a mobile phone from Ranjan Hazarika.
- 2. In this regard, Sri Ranjan Hazarika, filed an ejahar on 20.04.2015, the Officer-in-Charge, Gohpur Police Station registered a case as Gohpur P.S. Case No. 80/15 under section 341/325/379/34 of I.P.C. The police conducted investigation and thereafter submitted **charge-sheet against the accused persons Sri Ranuj Mili and Sri Tilika Pegu, for trial under sections 341/324/34 of I.P.C****

3. In due course, the accused person Sri Ranuj Mili entered appearance. He was furnished with the copies as required under section 207 Cr.P.C. My Learned Predecessor in office read over and explained the particulars of the offences U/S 341/324 of I.P.C against the accused to which he pleaded not guilty and claimed to be tried. Due to non-appearance, case is filed against other accused Tilika Pegu.
4. In support of the case, the prosecution examined fourteen (14) witnesses. The evidence was recorded by Learned JMFC, Gohpur. Thereafter, case was transferred. Statement U/S 313 of Cr.P.C. of the accused person is recorded. Defence plea was of total denial. Defence opted not to adduce evidence.
5. **Point for determination :**
  - I. **Whether the accused person on 19.04.2015 at about 7 p.m. at Rajabari path, Na-bil, wrongfully restrained Sri Ranjan Hazarika and thereby committed an offence punishable U/S 341 of I.P.C? and subsequently,**
  - II. **Whether the accused person on same date, time and place voluntarily caused hurt to Sri Ranjan Hazarika and thereby committed an offence punishable U/S 324 of I.P.C.?**
6. **Discussion, Decision and Reasons thereof:** - I have heard the learned Counsel appearing for the State. Also heard the learned Counsel appearing for the accused person. Upon hearing the learned Counsel for the parties and on perusal of the records, I am of the considered opinion to hold the following :-
7. **Point of Determination No. I & II:** **Both the points are taken up together for discussion in order to maintain the flow and appreciation of evidence.**
8. **P.W.1- Sri Ranjan Hazarika, he is the informant of the instant case. He in his examination-in-chief deposed that** he is the informant. That, on a certain day in the year 2015 at about 7.30 p.m. near 1 No. Ujabora, while he was waiting near the pathway in his bike, the accused Tilika Pegu assaulted him with a wooden plank on his head.

That, he sustained injury on his head. Thereafter, Ranesh Mili came and beat him up. That, nearby persons came and rescued him. That, in that incident his mobile and money fell out of his pockets (which pocket, not mentioned). Later, his brother took him for treatment. He filed an ejahar on the next day of incident. He exhibited the ejahar as Exhibit 1 and identified his signature thereon.

**9. During his cross-examination he deposed that** he does not know with what object accused Ranesh attacked him. Denied that he has deposed falsely against the accused persons as stated in his evidence in chief. That, Santosh Das, Barun Das and one Prabin were present when the incident occurred.

**10.P.W.2- Sri Mahim Borah, he in his examination-in-chief deposed that** he is acquainted with the informant. However, he does not know the accused persons. That, he along with police personnel went to the place of occurrence and visited house of the accused persons. However, he did not find the accused persons at their house. That, two Mising community boys attacked Ranjan Hazarika on his head. He has no further knowledge about the incident.

**11.During his cross-examination he deposed that** police recorded his statement pertaining to the case. That, he has not seen the incident. He has deposed as narrated by Ranjan Hazarika.

**12.P.W.3- Sri Mrinal Patgiri, he in his examination-in-chief deposed that** he is acquainted with both the sides. That, in the year 2015 on a certain day at Na-bil tiniali he heard that Ranjan Hazarika sustained injury on his head. However, he was not at the place of occurrence when the incident occurred.

**13.During his cross-examination he deposed that** he was at his house when the incident occurred. He has no knowledge who quarreled with whom.

**14.P.W.4- Sri Paban Das, he in his examination-in-chief deposed that** he is acquainted with informant and accused Tilika Pegu. However, he does not know the accused Ranash Mili. That, the incident took place in the year 2015 on a certain day at about 7.30 p.m. at Na-bil tiniali while

he was returning from his work, he saw Tilika Pegu physically assaulted Ranjan Hazarika with a wood piece. He has no further knowledge about the incident.

**15. During his cross-examination he deposed that** he witnessed the incident. That, police enquired him about the incident after 2 to 3 days of the incident at police station.

**16.P.W.5- Sri Jiten Dey, he in his examination-in-chief deposed that** he is acquainted with informant Ranjan Hazarika and accused Tilika Pegu. However, he does not know the accused Ranash Mili. That, the incident took place about 2 years back on a certain day at about 8 p.m. at Na-bil tinali while he was returning from his work, he saw Tilika Pegu physically assaulted Ranjan Hazarika with a wooden plank. That, Ranjan somehow starts his bike and left the place of occurrence.

**17. During his cross-examination he deposed that** police enquired him about the incident after 3 to 4 days of the incident at Gohpur P.S.

**18.P.W.6- Sri Anjun Das, he in his examination-in-chief deposed that** he is acquainted with informant Ranjan Hazarika and accused Tilika Pegu. However, he does not know the accused Ranash Mili. That, the incident took place about 4 years back on a certain day at about 7 p.m. at Na-bil tinali, while he was returning from his work with Jiten, Paban and Santosh. That, he saw Tilika Pegu physically assaulted Ranjan Hazarika with a wooden plank and fell down on the ground. Thereafter, he left the place of occurrence. That, he has no further knowledge about the incident.

**19. During his cross-examination he deposed that** police recorded his statement at police station on the very next day of the incident. That, he witnessed the incident from the starting. That, Tilika Pegu physically assaulted Ranjan Hazarika.

**20.P.W.7- Sri Anat Kr. Pegu, she in her examination-in-chief deposed that** he is acquainted with informant Ranjan Hazarika. However, he does not know the accused Tilika Pegu. That, he has no knowledge about the incident. That, police did not enquire him about the incident.

**21. His cross-examination was declined by the defence side.**

**22.P.W.8- Sri Bidhan Patgiri, he in his examination-in-chief deposed that** he is acquainted with both the sides. However, he has no knowledge about the incident. That, he was at his house when the incident occurred. That, he heard about the incident when police visited the house of Tilika Pegu and the place of occurrence in the year 2015. That, his house is about 1 ½ k.m. away from the place of occurrence.

**23. During his cross-examination he deposed that** he did not visit the place of occurrence.

**24.P.W.9- Sri Hemjit Taid, he in his examination-in-chief deposed that** he is acquainted with both the sides. However, he has no knowledge about the incident. That, he heard Tilika, Ranash and Ranjan were engaged in a duel in the year 2015.

**25. During his cross-examination he deposed that** he did not visit the place of occurrence.

**26.P.W.10- Sri Durga Bora, he in his examination-in-chief deposed that** he is not acquainted with both the sides. That, he has no knowledge about the incident. That, police took him to the house of Tilika.

**27. During his cross-examination he deposed that** he has no knowledge why police inquired about of Tilika Pegu.

**28.P.W.11- Sri Rituprona Kutum, he in his examination-in-chief deposed that** he is not acquainted with the informant. However, he recognizes the accused person present in the dock. That, he has no knowledge about the incident.

**29.P.W.12- Sri Santosh Das, he in his examination-in-chief deposed that** he is acquainted with informant and accused Tilika Pegu. However, he does not know the accused present in the dock. That, the incident took place about 4 years back on a certain day at about 7 p.m. at Na-bil tiniali while he was returning from his work, he saw Tilika Pegu physically assaulted and hit on the head of Ranjan Hazarika with a wooden plank while he was standing near his bike. Thereafter, he left the place of occurrence.

**30. During his cross-examination he deposed that** he did not see the accused present today on the day of incident at the place of occurrence.

**31.P.W.13- Dr. Ranjit Kari, he in his examination-in-chief deposed that** on 19.04.2015 at about 10 p.m, he examined Ranjan Hazarika under police requisition no. 80/15 and found cut injury on left and right frontal region caused by sharp weapon. Nature of injury was simple. He exhibited the medical report as Ext.2 and identified his signature there on

**32. During his cross-examination he deposed that** the injuries might be due to falling upon rough surface having sharp edges.

**33.P.W.14- Sri Deba Kr. Kutum, he in his examination-in-chief deposed that** he is not acquainted with both the sides. That, about 4 to 5 months back from the date of his deposition on a certain day police enquired him about Kukiram's house. That, he has no further knowledge.

**34. His cross-examination was declined by the defence side.**

**35. In the light of the above testimonies and on perusal of the materials on record, the following facts are observed:**

**I.** That, although the eye witnesses have corroborated the fact put forward by victim P.W.1 that accused Tilika Pegu have assaulted Ranjan Hazarika on the day of incident. However, none of them have stated anything incriminatory against accused Ranash Mili.

**II.** Further, Ranash Mili's name was not present in the F.I.R.

**III.** Although victim cum informant stated that Ranash caused injury to him, but his version is not supported by the eye witnesses like Santosh Das P.W.12, who P.W.1 himself stated to have seen on the place of occurrence on the fateful day.

**IV.** Observing the above discussion, benefit is to be forwarded to the accused person Ranash Mili. Hence, offence U/S 341/324 of I.P.C stands not proved against accused Ranash Mili.

**36. Considering the above, I hold that prosecution has failed to prove the guilt of the accused person beyond all reasonable doubt that on 19.04.2015 at about 7 p.m. at Rajabari path, Na-bil, wrongfully restrained Sri Ranjan Hazarika and voluntarily caused hurt to Sri**

**Ranjan Hazarika and thereby committed offences punishable U/S 341/324 of I.P.C.**

**37. In the result, the accused person Sri Ranash Mili is hereby acquitted on benefit of doubt U/S 341/324 of I.P.C. and set at liberty forthwith.**

**38. Bail bonds furnished are hereby extended for a period of 6 (six) months.**

**39. The case is disposed of on contest.**

Given under my hand and seal of this court on this the  
20<sup>th</sup> day of May, 2019 at Gohpur.

**( Pooja Sinha )  
Sub-Divisional Judicial Magistrate (M)  
Gohpur**

***Dictated and corrected by me***

**( Pooja Sinha )  
Sub-Divisional Judicial Magistrate (M)  
Gohpur**

**APPENDIX**

**Prosecution Witness-**

- P.W.1- Sri Ranjan Hazarika**  
**P.W.2- Sri Mahim Borah**  
**P.W.3- Sri Mrinal Patgiri**  
**P.W.4- Sri Paban Das**  
**P.W.5- Sri Jiten Dey**  
**P.W.6- Sri Anjun Das**  
**P.W.7- Sri Anat Kr. Pegu**  
**P.W.8- Sri Bidhan Patgiri**  
**P.W.9- Sri Hemjit Taid**  
**P.W.10- Sri Durga Bora**  
**P.W.11- Sri Rituprona Kutum**  
**P.W.12- Sri Santosh Das**  
**P.W.13- Dr. Ranjit Kari**  
**P.W.14- Sri Deba Kr. Kutum**

**Defence Witness-**

**Nil**

**Prosecution Side Exhibits-**

- Ext.1- Ejahar**  
**Ext.2- Medical report**

**Defence Side Exhibits-**

**Nil**

**( Pooja Sinha )**  
**Sub-Divisional Judicial Magistrate (M)**  
**Gohpur**