

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE

SONITPUR, TEZPUR, ASSAM

GR CASE NO:- 2109/14

U/S – 341/294/323/506 IPC

State of Assam

Vs

**1. Sri Suren Das**

**2. Sri Prafulla Das**

**3. Sri Basanta Das**

**4. Sri Dul Das**

**Accused persons**

Present : Sri. Angshuman Bhattacharjee  
Addl. Chief Judicial Magistrate

For Prosecution : Sri. P. Baruah, Learned Addl. Public Prosecutor.

For the accused : Sri S.C Das, Ld Defence Counsel

Evidence recorded on : 27-06-17,11-09-17,25-01-18,31-03-18,08-05-19,  
13-03-20, 05-12-20

Arguments heard on : 15-02-21

Judgement delivered on : 20-02-21

**J U D G M E N T**

1. The prosecution story emanates from the FIR lodged by Sri Dilip Das and Pinku Das stating inter alia that while they were working in the field, accused Basanta Das, Suren Das, Prafulla Das and Dul Das entering into the field had assaulted them. On 30-08-14 when he told the O/C of Bebejia OP that they had not got their land, the incident took place. Hence this case.

2. After completion of investigation the police filed charge-sheet against the accused persons u/s- 341/294/323/506/34 IPC. At the relevant point of time, on receipt of summons the accused persons appeared before this Court and they were furnished copies as mandated u/s 207 Cr.P.C. Having found a case against the accused persons u/s- 341/294/323/506 IPC, the particulars under said sections of law were framed, read over

and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

3. The prosecution examined 8 (eight) witnesses and defence examined none. The accused persons were examined u/s-313 Cr.P.C. wherein they stated that the prosecution case is false.

**Points for determination**

- i. Whether on 31-08-14 the accused persons wrongfully restrained the informant Sri Dulip Das and Sri Pinku Das and thereby committed the offence punishable under Section 341 of IPC?
- ii. Whether the accused persons on the same day and time uttered obscene words and language to the informant Sri Dulip Das and Sri Pinku Das to the annoyance of others and thereby committed an offence punishable under Section 294 of IPC?
- iii. Whether the accused persons on the same day and time voluntarily caused hurt to the informant Sri Dulip Das and Sri Pinku Das and thereby committed an offence punishable under Section 323/34 of IPC?
- iv. Whether the accused persons on the same day and time committed criminal intimidation by threatening the informant Sri Dulip Das and Sri Pinku Das and thereby committed an offence punishable under Section 506 of IPC?

**Discussion of evidence**

4. PW1 Sri Dilip Das deposed that he and his nephew Pinku Das together lodged the ejahar. Accused persons are his relatives. On 3-08-14 at about 7 am, while he and his brother were working in their field, his nephew Sri Pinku Das came to serve tea and by the time, a pushing and pulling took place. Pursuant to this, accused persons had lodged a case for which he had also lodged this case. He has identified his signature as Ext.1(1) in the ejahar (Ext.1).

In cross-examination, he stated that for the said land, a civil case is pending in the Tezpur Court. He denied that as per court's order they are not entitled to take possession

of the said land. He also denied that the said land belongs to the accused persons and he illegally went to take possession of the said land.

5. PW2 Sri Pinku Moni Das deposed that he is one of the informants of this case. On the day of the occurrence, at about 7 am, his father Sushil Das was ploughing in the field and he went to serve tea. At that time, Suren Das pushed him from his cycle and Basanta Das gave him a fist blow on his eyes. Suren Das had kicked him. He lodged the ejahar as Ext.1 whereupon Ext.1(20 is his signature.

In cross-examination, he stated that he had not mentioned in his ejahar that the accused Suren Das had pushed him from his cycle, Basanta Das gave a fist blow on his eyes and Suren Das had kicked him.

6. PW3 Smti Sukleswari Hazarika deposed that on the day of the occurrence, she saw that Suren Das brought a stick and assaulted Pinku Das. Pinku Das sustained injury on his eyes and Dilip Das sustained injury on his hand.

In cross-examination, she stated that Dilip Das and Sushil Das are her own brothers. At the time of the occurrence, she was present near the place of occurrence. She denied that she did not state before police that she was present near the place of occurrence and saw the occurrence with her own eyes. She also denied that she did not state before police that Suren Das assaulted Pinku Das and Dilip Das with a bamboo stick.

7. PW4 Smti Sonmai Das is the wife of Sushil Das and she deposed that on the day of the occurrence, her elder son Pinku Moni Das was assaulted with a stick by the accused persons while he was going to serve tea in the field. Pinku sustained injury under his eyes and hand.

In cross-examination, she denied that she did not state before police that accused persons brought out a stick from nearby house garden and assaulted Pinku. She stated that a dispute is going on between both the parties regarding ownership of the said land. She stated that one day before the occurrence, an order of the court was passed and so far as her knowledge, as the court permitted them to plough in the disputed land, so they went to plough in the field on the day of the occurrence. She denied that when the accused persons asked them to plough in the field, Sushil Das and Dilip Das caused injury on the head of Basanta Das and also caused fracture injury on the hand of another accused Suren Das.

8. PW5 Sri Dul Sut claimed himself to be an eye witness to the occurrence and he deposed in tune with other PWs.

In cross-examination, he denied that after hearing hue and cry from the paddy field, his sister instructed him to take stock of the matter and accordingly he went to the place of occurrence. He also denied that as the informant is his brother-in-law, he had deposed falsely in favour of his brother-in-law.

9. PW6 Dr Nilakhi Das is the medical officer and she deposed that on 24-06-15 when she was posted as Deputy Superintendent of Kanaklat Civil Hospital, on that day she had prepared her report of one patient namely Pinku Moni Das on the basis of findings of her predecessor Dr Ila Rajkhowa. The patient was examined by Dr Ila Rajkhowa in the year 2014 and she had prepared the report in the year 2015.

In cross-examination, she stated that she had not personally examined the patient.

10. PW7 Dr Ila Rajkhowa is also a medical officer and she deposed that on 31-8-14 she examined one Sri Pinku Moni Das. She has identified her report as Ext.3 whereupon Ext.3(1) is his signature.

In cross-examination, she stated that the injury mentioned in Ext.3 may be sustained by falling.

11. PW8 Sri Tilak Saharia is the investigating officer.

In cross-examination, he denied that PW3, PW4 and PW5 stated the facts before him which they stated in course of their evidence-in-chief.

This in nutshell is the evidence on record.

### **DECISION AND REASONS THEREOF**

12. I have heard the prosecution and defence side.

13. Let me now analyse how far prosecution side has been able to prove its case beyond all reasonable doubt against the accused persons.

14. It is seen that the entire matter out of which the incident has arisen relates to a land dispute. In course of his cross-examination, PW1 who is the one of the informants of this case has stated that the accused persons have also lodged a case and after that this case was lodged. Again in course of his cross-examination, he has also stated that a civil suit is also pending relating to the disputed land. This means that there is previous hostility between the informant and the accused persons. PW2 is one of the informants of this case. PW3 is the brother of PW1 and uncle of PW2. PW4 is the mother of PW2 and

PW5 is also a relative of the informant. PW6 is the medical officer who had prepared the medical examination report and PW7 i.e. Dr Ila Rajkova is the medical officer who has examined PW2, Pinkumoni Das. In course of her cross-examination, PW7 stated that the injury mentioned in Ext.3 i.e. the medical examination report of PW2, may be sustained by falling.

15. Considering all the above aspects, it is seen that the prosecution side has not examined any witness who can be said to be independent. All the PWs other than the medical officer and I/O, are either informant of this case or relatives of the informant. Moreover, considering the nature of dispute as well as existence of previous animosity between the informant and the accused persons, prosecution case cannot be said to have been proved beyond all reasonable doubt on the evidence of these PWs.

16. In view of the above aspects, it is hereby held that prosecution has failed to prove its case beyond all reasonable doubt. As such this court holds that the accused Basanta Das, Suren Das, Prafulla Das and Dul Das are not guilty of the offence U/S 341/294/323/506 IPC and they be set at liberty forthwith. The bail bond furnished by the accused persons is hereby extended for six months from today (20-02-2021).

17. Seized articles if any, be delivered to his lawful owner after proper verification and following the process of law.

18. Judgement is delivered and pronounced in open court.

19. Given under my hand and seal of this court on this 20<sup>th</sup> day of February, 2021.

Sri Angshuman Bhattacharjee  
Addl. Chief Judicial Magistrate  
Sonitpur, Tezpur

APPENDIX

Prosecution witnesses:-

PW1 Sri Dilip Das

PW2 Sri Pinku Moni Das

PW3 Smti Sukleswari Hazarika

PW4 Smti Sonmai Das

PW5 Sri Dul Sut

PW6 Dr Nilakhi Das

PW7 Dr Ila Rajkowa

PW8 Sri Tilak Saharia

Defence witness:

Nil

Documents exhibited by the prosecution :-

Ext. 1 Ejahar

Ext.2 sketch map

Ext 3 Medical Report

Ext.4 charge sheet

Documents exhibited by the defence -: Nil

Sri Angshuman Bhattacharjee  
Addl. Chief Judicial Magistrate  
Sonitpur, Tezpur