

**IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE:**

**BISWANATH CHARIALI:: SONITPUR**

Present: Mrs. Priyanka Hazarika Nair

Sub Divisional Judicial Magistrate (M)

Biswanath Chariali, Sonitpur.

**G.R Case No. 531/2016**

**u/s 325/34 I.P.C**

**State**

**Vs.**

**Sri Karun Borah**

**Sri Gaurab Borah**

**Sri Bikash Borah**

Advocate for the Prosecution: Sri Badan Sharma, Ld. Addl. P.P

Advocate for the Defence: Sri Pranjali Upadhyaya.

Evidence Recorded on: 08.05.2019.

Argument Heard on: 08.05.2019.

Judgment Delivered on: 08.05.2019.

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

### **PROSECUTION FACTS IN BRIEF:**

1. The encapsulated version of the prosecution case is that the informant, Sri Sujit Ghosh, had lodged an ejahar on 22.10.2016 stating inter alia that on 21.10.16 at around 10:30 P.M the accused persons allegedly assaulted him as a result of which he had sustained severe injuries. Hence this case.
2. On receipt of the ejahar, the Officer in Charge of the Biswanath Chariali P.S registered a case vide BNC P.S Case no.312/2016 u/s 325/326/379/34 of the Indian Penal Code. The investigation culminated into the filing of the charge sheet u/s 325/34 of the I.P.C against the accused persons.
3. The Court has complied with the requirement of furnishing copies of relevant documents to the accused persons, as enshrined in Section 207 Cr.P.C. Thereafter, on a careful consideration of the case record and charge sheet and after hearing Learned Advocates of both the sides, it appeared that there were prima facie materials against the accused persons u/s 325/34 IPC and hence the charge was accordingly framed. The charge was, thereafter, read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

### **POINTS FOR DETERMINATION:**

4. Whether the accused persons, in furtherance of their common intention, voluntarily caused grievous hurt to the informant and thereby committed an offence u/s 325/34 I.P.C?

### **THE TRIAL:**

5. The prosecution side examined one witness and the defence exercised their right to cross examine the said prosecution witness. The prosecution exhibited one document in support of their case.

6. On closure of the prosecution evidence, the statement of the accused person u/s 313 Cr.P.C was dispensed with. The defence side refused to adduce any evidence on their behalf. Thereafter, the arguments forwarded by the Learned Advocates of both the sides were heard and the under mentioned findings were arrived at.

**DISCUSSION, DECISION AND REASONS THEREOF:**

7. PW-1, Sri Sujit Ghosh, had deposed that on 17.10.2016 at around 9/9:30 P.M he had some altercation with the accused persons as the bike of the accused persons had hit his bike. He deposed that they have now amicably resolved their dispute out of Court and that he does not wish to proceed further with the instant case anymore. He further deposed that he has no objection if the accused persons are acquitted from the instant case. Exhibit 1 is the ejahar and Exhibit 1 (1) is his signature.

**APPRAISAL OF THE EVIDENCE ON RECORD & DECISION:**

8. From the testimony of the victim, it appears that there was a mere altercation between him and the accused person. There appears nothing in evidence which attracts Section 325/34 IPC against the accused persons. Therefore, in absence of any evidence, it can be said that the guilt of the accused persons in instant case u/s 325/34 IPC cannot be said to be proved by the prosecution beyond reasonable doubts.

**ORDER**

9. Keeping in mind the above discussion and decision, I hereby acquit the accused persons, Sri Karun Borah, Sri Bikash Borah, and Sri Gaurab Borah, from the charge u/s 325/34 of the Indian Penal Code.
10. Adhering to Section 437-A of the Cr.P.C, the bail bonds of the accused persons shall remain in force for six months.

11. The case is, accordingly, disposed of on contest.

12. The judgment is delivered and pronounced in open Court, today, the 8<sup>th</sup> day of May, 2019 under my hand and seal of this Court.

Smti. Priyanka Hazarika Nair  
Sub Divisional Judicial Magistrate(M)  
Biswanath Chariali, Sonitpur.

**G.R Case No. 531/16**

Dated: 08.05.2019

APPENDIX

**(A) PROSECUTION WITNESSES:**

P.W-1: Sri Sujit Ghosh

**(B) PROSECUTION EXHIBITS:**

Ext. 1- Ejahar

**(C) DEFENCE WITNESSES:** Nil

**(D) DEFENCE EXHIBITS:** Nil

(Mrs. Priyanka Hazarika Nair)  
Sub Divisional Judicial Magistrate (M)  
Biswanath Chariali, Sonitpur.