

**IN THE COURT OF THE ADDL. CHIEF JUDICIAL MAGISTRATE:
SONITPUR AT TEZPUR**

GR CASE NO 1757/2008
(U/s 143/447/323/353 of IPC)

State

-Vs-

- 1. Sri Abhijit Deka,**
- 2. Sri Subodh Das,**
- 3. Sri Sashi Bhusan sarmah,**
- 4. Sri Bishal Chetry,**
- 5. Sri Biswajit Dutta,**
- 6. Sri Kunal Basumatary,**
- 7. Sri Ashit Tanti &**
- 8. Sri Gourab Deka.**

..... **Accused persons.**

Present: Smti Audri Bhattacharyya,
Addl. Chief Judicial Magistrate,
Sonitpur, Tezpur.

Appearances:

Mr M Hussain,
Learned Addl PP : For the prosecution.

Mr PC Sarmah,
Ld Counsel : For the accused.

Date of recording evidence : **06-02-2015, 07-04-2015.**

Date of hearing argument : **11-05-2015.**

Date of judgment : **11-05-2015.**

J U D G M E N T

The prosecution case in brief is that:

The ejahar was lodged by the complainant Dr Nabin Ch Sonowal on 09-10-2008 alleging *inter alia* that on the same day around 9.15 AM a group of around 10 people lead by some Gourab Deka entered

into the Railway Hospital, Rangapara North and called Dr S Bora, who was on round duty in IPD and started manhandling him in the hospital premises in presence of other hospital employee and patients.

2. On receipt of ejahar, Rangapara PS case 184/08 under Section 143/447/323/353 of IPC was registered and the case was entrusted for investigation. The IO taking up the duty of investigation, visited the place of occurrence, examined the witnesses and on conclusion of the investigation, submitted charge-sheet against the accused persons namely Gourab Deka, Abhijit Deka, Soubodh Das, Sashi Bhushan Sarmah, Bishal Chetry, Biswajit Dutta, Kunal Basumatary and Ashit Tanti under Section 143/447/323/353 of IPC.

3. On taking cognizance, summons were issued to the accused persons and on receipt of summons the accused persons appeared before the Court and was furnished with copies of the relevant documents.

Heard both the sides pertaining to framing of charge. Considering the materials on case record and the case diary and upon hearing both the sides, prima facie materials particulars of offences against the accused persons under Section 143/447/323/353 of IPC had been read over and explained the accused persons to which they pleaded not guilty and claimed to be tried.

4. POINTS FOR DETERMINATION:

- 1. Whether the accused persons were the members of an unlawful assembly and the common object of such assembly entered into the NF Railway Hospital, Rangapara North and voluntarily caused hurt to Dr S Bora and committed the***

offence under Section 143/323 of IPC?

2. Whether accused persons, committed criminal trespass by entering to the Railway Hospital, Rangapara North and assaulted Dr S Bora, who is a public servant in execution of his duty as public servant and are committed the offence under Section 354 of IPC?

Prosecution had examined three PWs including the informant and victim of this case. Statement of accused persons under Section 313 CPC is dispensed with as there is no incriminating material against the accused persons. Heard the Learned Counsel for both the sides.

DISCUSSION, DECISION AND REASONS THEREOF:

5. I have carefully perused the evidences of the PWs, to arrive at a just decision.

6. PW1 Sri Bipul Boro deposed in his evidence that he could recognize the accused persons. He supported the case of the prosecution to the extent that on 09-10-2008, he was working in the Rangapara NF Railway Hospital as cleaner. On the date of occurrence, at about 8AM to 9AM a group of boys came up and assaulted Dr Sourav Bora near the gate and fled away. Lateron, Dr Nabin Ch Sonowal, Supdt. Of NF Railway Hospital lodged the ejahar.

7. PW2 Smti Kalpana Sonowal is hearsay evidence and she deposed that she had heard from others that there was some altercation in between one Doctor and a group of boys on the date of occurrence.

8. PW3 Sri Subaleswar Deka is the investigating officer of the case and he deposed with regard to investigation carried out by him. Ext. 1 is the ejahar and Ext.1(1) is the endorsement in his name by OC Rangapara Police station for carried out the preliminary investigation. GD Entry No 202 dated 09-10-2008 was entered and the same is given along with the case diary. Ext.3 is the extract copy of GD Entry NO 202. He deposed that he recorded the statement of witnesses, drew sketch map, and visited the place of occurrence. Ext.4 s the sketch map of place of occurrence and Ext.4(1) is his signature. He collected the medical report of victim vide Ext. 5. Charge sheet was submitted against the accused persons under Section 143/447/323/353 of IPC. Ext. 8 is the charge sheet and Ext.8(1) is his signature.

9. PW4 Dr Dilliram Adhikary is the M & HO and he exhibited the medical report of the injured/victim Dr Sourav Borah. Ext. 5 is the medical certificate given by him and Ext.5(1) is his signature.

10. Going through the evidences on record, it is seen that none of the prosecution witnesses could identify the accused persons. The complainant as well as the victim Dr Sourav Borah did not come forward to depose as witness in the case. Though, PW1 deposed that he was present when the occurrence took place and saw that some persons had caused injuries to Dr Sourav Bora, he could not name or identify any of the accused persons to be present at the place of occurrence when occurrence took place. Hence, there is nothing on record to prove the presence of the accused persons at the place of occurrence when the accident took place.

Considering the above facts and circumstances of the case, I find that the prosecution has totally failed to prove the offences under Section 143/447/323/353 of IPC against the accused persons beyond all

reasonable doubt. Hence, they are held not guilty of the said offences and are hereby acquitted and set at liberty forthwith.

The bail bond for accused stands extended till expiry of six months from today.

The case is disposed of on contest.

This Judgment is given under my hand and the seal of this Court on this **11th** day of **May, 2015**.

(Smti Audri Bhattacharyya)
Addl Chief Judicial Magistrate,
Sonitpur, Tezpur

Dictated and corrected by me:-

(Smti Audri Bhattacharyya)
Addl Chief Judicial Magistrate,
Sonitpur, Tezpur

Transcribed and typed by me:

(Pori Das)

-Steno-