

**IN THE COURT OF SUB-DIVISIONAL JUDICIAL MAGISTRATE :::**  
**BISWANATH, SONITPUR**

**GR Case No. 484/13**

State

Versus

1. Shri Jogen Koiri
2. Shri Arjun Koiri.....Accused persons

Present : **B. Borthakur**

Sub-Divisional Judicial Magistrate,

Biswanath Chariali, Sonitpur.

In appearance:

For Prosecution : Ms. Jahnabi Kalita, Addl P.P.

For Defence : Ms. M. Bhattacharjee, Advocate

Date of recording evidence : 18-05-15

Date of argument : 18-05-15

Date of judgment : 18-05-15

**u/s 448/323/506, IPC**

## **JUDGMENT**

1. The case of prosecution, in brief, is that on 07-07-13, at around 7:00pm, accused persons – Shri Jogen Koiri and Shri Arjun Koiri, armed with iron rods and sticks of bamboo fencing, entered the house of informant – Smt. Renurani Mitra, dragged her husband, Jadav Mitra to the courtyard and beat him up with those weapons of assault. The accused persons would have killed him had not the neighbours arrived and saved him from their attack. In a state of grievous injury, he was taken in an 108 ambulance to hospital. On the next day, accused Jogen Koiri threatened the informant with her life should she report the matter to police. FIR was lodged on 08-07-14 at Biswanath Chariali P.S. and hence, the instant case.
2. After completing investigation, police submitted charge-sheet against the above-named accused persons u/s 448/323/506, IPC. Copies were furnished the accused persons on his appearance as per provisions of Sec. 207, CrPC. Particulars of offence under the said section of law were explained to the accused persons, to which they pleaded not guilty and claimed to stand trial.
3. In order to bring home the charges, prosecution examined the informant and one more witness. The alleged victim had expired. Going by their testimony, prosecution closed its evidence. With nothing incriminating against them, examination of the accused persons u/s 313, CrPC, was dispensed with.

## **POINTS FOR DETERMINATION**

4. I have heard arguments of learned counsel for complainant and of learned defence counsel. I have also carefully gone

through the entire evidence available in case record. Upon such examination, I find, that to ascertain the guilt of the accused person, it is necessary to determine whether-

- (i) The accused persons trespassed into the house of informant on 07-07-13, at around 7:00pm;
- (ii) Whether the accused persons voluntarily caused hurt to Jadav Mitra, husband of the informant; and
- (iii) Whether accused person Jogen Koiri criminally intimidated the informant.

#### **DECISION, DISCUSSION AND REASONS THEREOF:**

5. To arrive at a decision on the above points, the evidence adduced has been carefully gone through. **PW1- Smt. Phuleswari Das**, mother of the informant, stated that she does not know anything about the occurrence except that it took place around two years back in the evening. She had gone to bring back the cows. When she returned, she saw her son-in-law, Jadav Mitra (since deceased), smeared with some blood on his face. She stated that she did not know how he got that blood on his face. She also stated that she had not heard anything about the occurrence and that she did not know if anyone had beaten him up. She disclosed that Jadav Mitra expired in the last month of Kartik (in 2014).
6. **PW2-informant Smt. Ranurani Mitra**, stated that she had gone to sell Moori (puffed rice). When she returned in the evening, she saw her husband, Jadav Mitra, lying on the ground in an injured condition. The neighbours had called 108 ambulance and sent him to hospital. She heard that there was some maarpit with stick of bamboo fencing of their boundary

but did not know with whom the maarpit had taken place. She confirmed that her husband, Jadav Mitra, expired around eight months back. Ext-1 is the FIR. PW2 further stated that at present they are on amicable terms with the accused persons. She clarified that she wrote the names in the FIR as told by other people. But now the misunderstanding is clear. She stated that she has no grudges against the accused persons.

7. With nothing incriminating against him, examination of the accused person u/s 313, CrPC, was dispensed with.
8. Heard the rival contentions of learned counsels of both sides and perused record. The witnesses in this case, i.e. PW1 and PW2, have not stated against the accused person regarding trespass or causing hurt or criminal intimidation to anyone. The alleged victim, Jadav Mitra, also expired and so could not be examined. There are no other eye witnesses in this case. Both of the witnesses have only stated that they saw Jadav Mitra with some injury. There is nothing more in evidence than that. This much is not sufficient to bring home the charges against the accused persons. The allegations in the FIR and the testimonies of the PWs do not tally. Under the circumstances, the accused persons cannot be held guilty as charged. The accused persons are, therefore, entitled to acquittal.
9. In a result, I hold Shri Jogen Koiri and Shri Arjun Koiri, not guilty u/s 448/323/506, IPC, and acquit them accordingly.

10. This judgment is pronounced in open Court.

Given under my hand and seal of this Court on this, the 18<sup>th</sup> day of May, 2015.

**Bipaakkhi Borthakur**  
SDJM (M), Biswanath Chariali,  
Sonitpur.

## **APPENDIX**

### **GR 484/13**

#### PROSECUTION WITNESSES

PW1 - Smt. Phuleswari Das

PW2 - Smt. Ranurani Das

#### DOCUMENTS EXHIBITED BY PROSECUTION

Ext-1 - FIR

#### DEFENCE WITNESSES

None

#### DOCUMENTS EXHIBITED BY DEFENCE

None

**Bipaakkhi Borthakur**  
SDJM(M), Biswanath Chariali,  
Sonitpur.