

IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE (S) ,  
SONITPUR, TEZPUR, ASSAM.

GR. NO : 2380 of 2012

The State of Assam

VS

1. Samsul Hoque
  2. Azibur Hoque
  3. Ayub Khan
  4. Tahirul Islam
- ...Accused.

Present : ABDUL KADER  
Sub- Divisional Judicial Magistrate (S),  
Sonitpur, Assam.

Counsel for prosecution: Mr A. Baruah, Learned APP.

Counsel for the defence: Mrs. A Begom

Date of evidence : 21.05.2014

Date of argument : 21.05.2014

Date of judgment : 21.05.2014

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

Prosecution story in a nutshell as bellow :

One Sri Nur Hussain lodged an FIR to the Officer-In-charge of the Tezpur police station alleging inter alia that on 30.09.2012 at about 8 a.m. while he was at his house along with his wife, the accused persons came to his house assaulted them and broken fencing wall of house. The accused persons took away Rs.5000/ from the house.

The officer- in-charge of the police station, after receiving the FIR registered a case vide Tezpur P.S. case no. 1391/2012 u/s 448/325/427/379/34 IPC and took up investigation thereon. During investigation the Investigating Officer recorded statement of the witnesses. After completion of the investigation, the Investigating Officer submitted charge sheet u/s 341/448/427/34 IPC against the accused persons.

Upon appearance of the accused persons before the court, copy was furnished to them as per section 207 Cr.P.C. Having regards to the materials on the case record, particulars of offence u/s 341//448/427/34 IPC were and read over and explained to the accused to which they pleaded not guilty and claimed to be tried.

In the course of trial the prosecution examined following witness(s):

PW-1 : Nur Hussain

PW-2 : Shukurjan Bibi

Examination of the accused person(s) u/s 313 CrPC is dispensed with. Defence did not adduce any evidence.

Heard argument of the learned APP for the prosecution and learned counsel for the defence.

**POINTS FOR THE DECISION :**

1. Whether the accused persons in furtherance of their common intention restrained the informant and his wife, thereby committed offence under section 341/34 IPC?
2. Whether the accused persons in furtherance of their common intention entered into the house of the informant with intent to commit an offence, thereby committed offence under section 448/34 IPC?
3. Whether the accused persons in furtherance of their common intention by entering into the house of the informant and broken fencing wall of house thereby committed offence under section 427/34 IPC?

**REASONS FOR DECISION:**

PW- 1 deposed that in 2012 one day there was quarrel between the accused and themselves. Later on the matter is amicable settled.

PW- 2 deposed that in 2012 one day there was quarrel between the accused and themselves. Later on the matter is amicable settled.

It is appeared from the record that there are quarrel between the parties.

No incriminating evidence is found against the accused persons.

Since there is no incriminating evidence against the accused persons I am of the opinion that the prosecution has failed to prove the case against the accused persons beyond reasonable doubt. Hence the accused are deserved to be acquitted of the charge.

In the above view the accused persons are acquitted of the charge u/s 341/448/427/34 IPC. Set them at liberty.

Given under my hand and seal of the court, on this 21st May 2014