

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

GR. NO : 483 of 2011

The State of Assam

VS

1. Aziz Saikia
 2. Maizuddin Ali
 3. Moin Uddin
 4. Zuel Ali
 5. Babu Saikia
 6. Almin Begom
 7. Farida Begom
-accused.

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

Counsel for prosecution: Mr. A. Baruah, Learned APP.
Counsel for the defence: Mrs. D. Singha.

Date of evidence : 25.04.13, 18.05.13 01.08.13
Date of argument : 09 .05.2014
Date of judgment : 09 .05.2014

J U D G M E N T

Prosecution story in a nutshell as bellow :

One Sri Smti Firoza Begom Lodged an FIR alleging inter alia that on 10.03.2011 at 12. 30 p.m. while she was returning from his uncles house the accused persons assaulted her black and blue with out any reason. She become unconscious and was taken to PHC for treatment.

The Officer- in-Charge of the Tezpur police station, after receiving the FIR registered a case vide Tezpur P.S. case no. 219/2011 u/s 143/341/325 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 143/341/323 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 143/ 341/323 IPC were 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 : Firoza Begom, PW-2 : Mira Begom, Pw-3 : Kamala Saikia,
PW-4 : Dr. Suman Das , PW-5 : Mazibur Rahman, PW-6 : Miraj Saikia.

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 DETERMINATION :

1. Whether the accused persons in furtherance of their common objective, formed an unlawful assembly with intent to commit an offence thereby committed an offence under section 143 IPC ?

2. Whether the accused persons in furtherance of their common objective, restrained the informant on his way thereby committed offence under section 341 IPC?

3. Whether the accused persons in furtherance of their common objective assaulted the PW-1, thereby committed offence under section 323 IPC?

DECISION AND REASONS THEREOF:

PW- 1 deposed that the accused are her neiboure and relatives. Incident took place on 24.04.11. on that day she went to the house of accused Aziz Saikia for asking about road construction. Then the accused Aziz saikia and other accused assaulted her with lathi (stick). Accused Alom Saikia Caught her neck and his wife assaulted her. One Mira Begom stayed near the PO saved her.

During cross she stated that if treatment had have been provided she would not file the case. She was not admitted to hospital. She also stated that FIR was lodged on 25.05.11 after 15 days.

PW-2, stated that she did not know anything. She was declared hostile. PW-3 stated that the accused persons as well as the informant are his near relatives. The information in that she was assaulted. But did not state by whom she was assaulted. PW-4 the medical officer stated that the examined the informant found swelling and tenderness over left parietal region. PW-5 stated that he does not know anything about the case. PW-6 also expected that he does not know anything about the case

Evidence of the PW-1 is found to be contradictory with the statements in the FIR as to date of occurrence. She also indicated that the FIR was filed after 15 days of the occurrence. She also stated that PW-2 Mira Begom was at the place of occurrence and saved her. But said Mira Begom stated that she did not see the incident and she does not know anything about the case.

There are contradictions in the evidence of the PW-1 with the evidence of all other witnesses. All other witnesses except the medical officer stated that they did not know anything about the case. Since all other witnesses did not support the prosecution case as well as the statement of the PW-1, her evidence found to be not reliable.

Considering above discussion I am of the opinion that the Prosecution has failed to prove the case beyond reasonable doubt. Hence the accused persons are deserved to be acquitted of the charge.

In the above view the accused persons are acquitted of the charge u/s 143/341/323 IPC. Set them at liberty.

Given under my hand and seal of the court, on this 9th May 2014