

**P.R. CASE NO.278/2018**

**STATE OF ASSAM–VS-SRI LIYON BHUYAN & ORS**

DISTRICT: SONITPUR  
IN THE COURT OF MR. A. HAZARIKA,S.D.J.M.(M) AT BISWANATH CHARIALI.

**P.R. Case No.278/2018**

**U/S 323/382/340F I.P.C.**

STATE OF ASSAM

.....**PROSECUTOR**

**-VERSUS-**

- 1.** SRI LIYON BHUYAN,
  
- 2.** SRI LON BHUYAN,  
BOTH ARE S/O. SRI PRANJAL BHUYAN,  
R/O. MAZ BAGHMORA,  
P.S. BISWANATH CHARIALI,  
DIST. BISWANATH, ASSAM AND
  
- 3.** MD. BABUL SEIKH,  
S/O. MD. HAMID SEIKH,  
R/O. SEUZPUR,  
P.S. BISWANATH CHARIALI,  
DIST. BISWANATH, ASSAM.

**.....ACCUSED PERSONS**

PRESENT: MR. A. HAZARIKA, S.D.J.M.(M) AT BISWANATH CHARIALI.

ADVOCATE FOR THE PROSECUTION: ADDL.P.P, MS. S. BORAH,

ADVOCATES FOR THE ACCUSED PERSONS: MR.N. DAS.

CHARGE FRAMED ON: 19.10.2019,  
EVIDENCE RECORDED ON: 17.02.2021,  
ARGUMENT HEARD ON: 17.02.2021 AND  
JUDGMENT DELIVERED ON: 17.02.2021.

### **JUDGMENT**

- 1.** The prosecution case in brief is that one Sri Pankaj Das lodged an F.I.R. before O.C. Gingia P.S. stating inter alia that on 06.05.18 at about 2.00 p.m. the

informant was coming from Gohpur by carrying some passengers in his Magic Vehicle bearing registration no.AS-12E-1143. Near the Samiran Factory the informant stopped his vehicle and was dropping some of his passengers and at that time the accused persons attacked him and took away about Rs.3,800/- (Rupees Three Thousand Eight Hundred) only out of his pocket. Hence this case.

2. On receipt of the F.I.R.O/CGingiaP.S.registered the same as GingiaP.S. Case No.129/18, U/S 382/34of I.P.C. and conducted investigation into the matter. On completion of the investigation, the police submitted charge-sheet against the accused persons U/S 382/34of I.P.C.
3. The accused persons entered their appearance in response to the process issued. Copies of the relevant documents were furnished to the accused persons in accordance with Section-207Criminal Procedure Code.During consideration of charge, my predecessor in office framed charges for offences U/S 323/382/34of I.P.C.The charges are read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.
4. During trial, the prosecution examined only 1 (one) witness and exhibited 1 (one) document after which the prosecution evidence is closed. The statement defence of the accused persons as mandated by Section-313 Criminal Procedure Code are dispensed with due to lack of sufficient materials. Defence declined to adduce any evidence.
5. Upon hearing both the parties and on perusal of the case record, the following points for determination have been formulated by this court:
  - i) *Whether the accused persons on 06.05.18 at about 2.00 p.m.near Samiran Factory under the Gingia P.S. in furtherance with their common intention have voluntarily caused hurt to Sri Pankaj Das and thereby committed an offence punishable u/s 323/34 of I.P.C.?*
  - ii) *Whether the accused persons on 06.05.18 at about 2.00 p.m.near Samiran Factory under the Gingia P.S. in furtherance*

*with their common intention committed theft of Rs.3,800/- (Rupees Three Thousand Eight Hundred) only from Sri Pankaj Dashaving made preparation to causing him hurt in order to commit such theft and thereby committed an offence punishable u/s 382/34 of I.P.C.?*

6. I have heard the learned counsel on both sides and have gone through the evidence on record which have been outlined below.

**EVIDENCE**

7. **P.W.1** Sri Pankaj Das, the informant/victim deposed that prior to 3 years in a day at about 2.00 p.m. he had a verbal altercation with the accused persons due to some incident of dropping passengers from his vehicle. Hence, he lodged the F.I.R. out of anger. He exhibited the F.I.R. as Ext.1 and his signature over the same as Ext.1(1). During cross-examination he deposed that he could not remember as to who wrote the F.I.R. He could not say as to what is written in the F.I.R. The incident took place due to misunderstanding. The accused persons did not assault him and he has no objection if the accused persons be acquitted.

**DICISSION, DISCUSSION AND REASON FOR DICISSION:**

8. For the sake of convenience both the points for determinations are taken together:

**POINT FOR DETERMINATION No.(i) AND (ii):**

9. The evidence of P.W.1 is of such a nature that it could be easily understood that the incident took place due to misunderstanding out of a simple verbal altercation only. The contents of F.I.R. is not proved as the P.W.1 reveals his ignorance about it. During investigation no stolen articles found to be recovered. Therefore, considering the evidence of P.W.1 it reveals that the prosecution has measurably failed to prove any offences U/s 323/382/34 of I.P.C. against the accused persons. Accordingly, the accused persons are found to be not guilty for committing offences U/s 323/382/34 of I.P.C. and thus they are acquitted.

**ORDER**

Accused persons are hereby acquitted from the charges and set at liberty forthwith.

The bail bonds of the accused persons and their surety shall remain in force for six months from today as per section 437A Cr.P.C.

Given under my hand & seal of this Court on this 17<sup>th</sup> day of February, 2021.

Dictated & corrected by me  
Sub-Divisional Judicial Magistrate (M)  
Biswanath Chari Ali

(Amarendra Hazarika)

**APPENDIX**

**PROSECUTION EXHIBIT:**

EXHIBIT-1: FIR DATED 06.05.2018.

**DEFENCE EXHIBIT:**

NONE.

**PROSECUTION WITNESS:**

PW1- Sri Pankaj Das, the informant/victim.

**DEFENCE WITNESS:**

NONE.

(Amarendra Hazarika)  
Sub-Divisional Judicial Magistrate (M)  
Biswanath Chari Ali