

P.R No-1559 of 2019
(State of Assam Vs Sri Ranjit Rahi Das)

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, SONITPUR:: TEZPUR

P. R. Case No. 1559 of 2019

Under section-341/326 of I.P.C

Present:- **Sri N. J. Haque, AJS,**
Chief Judicial Magistrate,
Sonitpur, Tezpur

State of Assam

-Vs-

Sri Ranjit Rahi Das

S/O:- Sri Chotu Rahi Das

R/O:- Chala Basti

P/S:- Tezpur

Dist:-Sonitpur, AssamAccused Person

Advocate appeared:

Mr. N.K. Mishra, Addl. P.P..... For the State

Mr. A.K. Paul & Ors, Ld. Advocate..... For the accused person

Evidence recorded on :- 23.02.2021

Date of Statement of defence :- 23.02.2021

Argument heard on :- 23.02.2021

Judgment delivered on :- 23.02.2021

J U D G M E N T

History of Prosecution's Case

1. Prosecution's case appears to be in a narrow campus is that one Sri Sanjib Bhuyan, lodged an ejahar before the O/C of Tezpur P.S through I/C of Salonibari Police Outpost, alleging inter alia that on 01.08.2019 at about 8:30 PM, while his sister Smt. Sima Das was returning from a vendor along with his nephew named Sri Bishal Das, on the way they had an altercation with the accused person. It is also deposed that the accused person tried to attack Sri Bishal Das with a sharp cutting dao and when Smt. Sima Das tried to resist his nephew from the attack for

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which she sustained grievous injury on her person where her three fingers on her right hand was rescinded.

"INVESTIGATION"

2. On receipt of the ejahar, Tezpur P.S Case No. 1410 of 2019 u/s-341/326/294 of I.P.C was registered and investigation into. On completion of the investigation, the I.O. of this case submitted charge sheet u/s-341/326/294 of I.P.C against the above-named accused person.

CHARGE & TRIAL

3. In pursuant to the court's process, the accused person appeared before the court and he was allowed to go on bail. Copies u/s-207 of CrPC was furnished to the above named accused person. After hearing both side, charge of offence u/s-341/326 of I.P.C. was read over and explained to the accused person on which he pleaded not guilty and claimed to be tried.

STATEMENT OF DEFENCE

4. The prosecution side to prove the guilty of the accused person examined three numbers of witnesses including victims of this case. Considering the testimonies of the witnesses, prosecution side declined to adduce further evidence before this court. Hence, the evidence of prosecution side is closed. Examination of accused person under section-313 of Cr.P.C is dispensed with as from the testimonies of the prosecution witnesses nothing implicating disclosed against the accused.

ARGUMENT

5. I have heard arguments of both sides, gone through the case record in the backdrop of evidences presented before this court by prosecution side.

6. **The points for determination in this case are:**

- (i) Whether on 01.08.2019 at about 8:30 PM at a place called Chola Basti under Tezpur PS, accused Sri Ranjit Rahi Das wrongfully restrained the victims, namely, Smt. Sima Das and Sri Bishal Das and thereby committed an offence under section-341 of I.P.C?

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(ii) Whether on the same date, time and place caused grievous hurt upon the victim named Smt. Sima Das by means of a sharp and pointed weapon and thereby committed an offence under section-326 of I.P.C?

DECISION AND THE REASONS THEREON:

7. In this case, prosecution side has got the burden of prove that on 01.08.2019 at about 8:30 PM, while his sister Smt. Sima Das was returning from a vendor along with his nephew named Sri Bishal Das, on the way they had an altercation with the accused person. It is also deposed that the accused person tried to attack Sri Bishal Das with a sharp cutting dao and when Smt. Sima Das tried to resist his nephew from the attack for which she sustained grievous injury on her person where her three fingers on her right hand was rescinded. In this case prosecution side to prove the case examined three numbers of witnesses including the victims in support of this case. I have carefully travelled through the testimonies of the prosecution witnesses in the backdrop of entire prosecution case and it finds:-

8. PW-1, Sri Sanjib Bhuyan being the informant of this case deposed that he knows the accused person of this case. He also deposed that the incident took place around one year back at a village road and on the date of alleged incident one day around 7 PM, an altercation took place between the accused and his nephew Bishal Das. He further deposed that on hearing about the incident, his elder sister Sima Das went there and at the time of unravelling the quarrel she sustained injuries on her one finger. He also deposed that his nephew informed him about the incident and due to that he lodged the ejahar. He identified his ejahar as Ext-1 and Ext-1(1) is his signature. PW-1 in his cross-examination testified that he has not seen the incident. He deposed that he came to know from his sister that she sustained finger cut injury on getting dashed with bamboo fencing.

9. PW-2, Smt. Sima Das being the victim of this case deposed before this court that the informant is her brother and the accused is known to her. She also deposed that the incident took place around one year back at a village road. She further deposed that on the date of alleged incident one day around 7 PM, an

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altercation took place between the accused and her son Bishal Das and hearing about the incident, she went there and at the time of unravelling the quarrel she sustained injuries on her one finger and due to that her brother lodged the ejahar. PW-2 in her cross-examination testified that she sustained cut injuries on getting dashed with bamboo fencing. She admitted that the accused has not inflicted any injury and therefore, she does not have any objection if the accused gets acquittal from this case.

10. PW-3, Sri Bishal Das another victim of this case deposed before this court that the informant is his uncle and the accused is known to him. He also deposed that the incident took place around one year back at a village road and on the date of alleged incident one day around 7 PM, an altercation took place between him and the accused and hearing about the incident, his mother went there and at the time of unravelling the quarrel she sustained injuries on her one finger. Due to that his uncle lodged the ejahar. PW-1 in his cross-examination testified that his mother sustained cut injuries on getting dashed with bamboo fencing. He admitted that the accused has not inflicted any injury and therefore, he does not have any objection if the accused gets acquittal from this case.

11. Hence, it apparently appears before this court that PW-1 being the informant of this case and as per his testimony he has not said anything incriminating against the accused person as he has not seen the alleged incident. PW-2 and PW-3 being the victims of this case in their testimonies have not said anything incriminating against the accused person, rather they deposed before this court that the accused has not inflicted any injury. PW-2 in her evidence admitted that she sustained cut injuries on getting dashed with bamboo fence. Now, both the victims don't have any objection if the accused person gets acquittal from this case.

12. To sum up the testimonies of the witnesses, it reveals before this court that the witnesses are appears to be contradictory with the entire contention of the ejahar and their testimonies cannot be relied upon.

13. In view of the above, evidence on record, I am of the opinion that prosecution has failed to prove the charge against the accused person beyond reasonable doubt and as such the accused is acquitted from the charge u/s-341/326 of IPC

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and sets at liberty. Surety is extended for six months in view of section 437A of Cr PC.

14. Accordingly, the case is disposed of Judgment is prepared and pronounced in open court. Given under my hand and seal of this court on this 23rd day of February, 2021.

(Sri N. J. Hoque)
Chief Judicial Magistrate,
Sonitpur: Tezpur

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ANNEXURE

1. Witnesses for Prosecution:-

PW-1:- Sri Sanjib Bhuyan, Informant

PW-2:- Smt. Sima Das, Victim

PW-3:- Sri Bishal Das, Victim

2. Witnesses for Defence: NIL

3. Court Witnesses: NIL

4. Prosecution Exhibits:

Ext-1 :- FIR

Ext-1(1) :- Signatures of PW-1

5. Defence Exhibits: NIL

6. Material Exhibits: NIL

Chief Judicial Magistrate
Sonitpur, Tezpur