

**IN THE COURT OF THE ASSISTANT SESSIONS JUDGE, SONITPUR
AT TEZPUR**

PRESENT : **Sri P. C. Kalita,**
Assistant Sessions Judge,
Sonitpur, Tezpur.

SESSIONS CASE NO. 6 OF 2015
GR Case No. 1404/ 2013

Under Sections 323/307/506/294 of Indian Penal Code

State of Assam

–Versus –

Sri Pradip Nath @ Subhash

Son of Sri Gamoram Nath

Resident of Baruah Doloni

PS – Tezpur

Dist – Sonitpur, Assam

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Accused Person

ADVOCATES APPEARED

For the State : Sri Mahendra Bora,
Additional Public Prosecutor

For the accused person : Sri G. Nath
Advocate

Date of evidence : 10– 04– 2015 & 28– 05– 2015

Date of Argument : 28– 05– 2015

Date of Judgment : 28– 05– 2015

J U D G M E N T

The prosecution case, inter-alia, in brief, is that informant Rabin Nath lodged an ejahar in the Bihaguri OP, under Tezpur PS, alleging that on 16-06-2013, at about 10 a.m., while his brother Ranjan Nath was doing job card works, in his place, on the road, in front of their house, the accused Pradip Nath, with a dao, hiding under his shirt, assaulted his brother Ranjan Nath, causing grievous injuries.

2. After receiving the aforesaid ejahar, the I/C of Bihaguri Out Post, made a GD Entry and on the basis of said GD Entry by forwarding the ejahar to O/C, Tezpur Police Station for registering a case. Accordingly, the O/C of Tezpur PS registered a case, bearing Tezpur Police Station Case No. 744/13 u/s 326/307/506/294 of IPC. After conclusion of investigation, the Investigating Officer submitted the Charge sheet against the accused u/s 323/307/506/294 of IPC.

3. After appearance of the accused, the learned Judicial Magistrate, 1st Class, Tezpur, committed the case to the learned Sessions Judge, Sonitpur, Tezpur and thereafter, the case was made over to this Court for disposal. Accordingly, this Court took up the trial of the case. Considering the materials available on case record and case diary, the charges were framed against the accused under Sections 323/307/506/294 of IPC. Then the contents of charges were read over and explained to the accused, to which the accused pleaded not guilty and claimed to be tried.

4. In order to bring home the charges, the prosecution has examined as many as 4 (four) PWs including the informant and the injured. Then, the accused has been examined u/s 313 CrPC. The pleas of the accused are of total denial and he has declined to adduce any defence evidence.

5. **Points for determination :**

(1) Whether the accused person, on 16-06-2013, at about 10 a.m., at village Baruah Doloni, under Tezpur P.S., voluntarily caused hurt to Sri Ranjan Nath, the brother of the informant and thereby committed an offence u/s 323 of IPC ?

(2) Whether the accused person, on or about the same day, time and place, did an act, namely, assaulted the said Sri Ranjan Nath, the brother of the

informant, with such intention (or knowledge), and under such circumstances, that, if, by that act, you have caused the death of said Sri Ranjan Nath, you would have been guilty of murder, and that you thereby caused hurt to the said victim Sri Ranjan Nath and thereby committed an offence u/s 307 of IPC ?

(3) Whether the accused person, you on or about the same day, time and place, committed criminal intimidation by threatening to Sri Ranjan Nath with dire consequence to his person in whom he is interested with intent to cause alarm to victim or to cause him to do an act which he is legally bound to do or to cause his to omit to do an act which he is legally bound to do (to kill the victim) and thereby committed an offence u/s 506 of IPC ?

(4) Whether the accused person, you on or about the same day, time and place, to the annoyance of Sri Ranjan Nath uttered some obscene words and thereby committed an offence u/s 294 of IPC ?

Discussions, Decision and reasons thereof :-

6. I have carefully perused the evidence and the materials available on the case record. Heard arguments of both sides. Now, let us examine the evidence of the PWs to decide the case at hand.

7. PW-1, Dr. (Mrs.) Sangeeta Sharma, the MO, stated that on 16-06-2013, she was working as M&HO-I at Kanaklata Civil Hospital, Tezpur. On that day, she examined Sri Ranjan Nath, 26 years, male, son of Tuwai Nath, of village Barua Doloni, PS- Tezpur, in connection with Behaguri OP GD Entry No. 248, dated 16-06-2013, being escorted and identified by Home Guard Siva Nath. He bore hospital Number Emergency 12948.

Alleged history of assault on 16-06-2013.

Companied of pain right parietal scalp and upper part of right leg.

On examination :

Tenderness over right parietal scalp and upper part of right leg.

Impression :

Simple, fresh injuries caused by blunt weapon.

Ext.1 is the Medical Report and Ext.1(1) is my signature.

8. PW-2, Rabin Nath, the informant, stated that he knows the accused person. In 2013, he lodged the ejahar against the accused person. On the day of occurrence, while he entrusted his brother Ranjan Nath to do his works, then there was an altercation and pulling and pushing between his brother and the accused person. He, again, returning to his works saw injuries on his brother. For this, he lodged the ejahar.

9. PW-3, Ranjan Kr. Nath, the injured, stated that informant is his brother. He knows the accused person. One day, in 2013, he was working on the road in place of his brother-informant, then the accused person coming there, made altercation with him in regard to the works done by him and then, there was pulling and pushing between them. He informed his elder brother about the incident, who then, lodged the ejahar.

10. PW-4, Kaushalya Devi, a neighbour, stated that she knows both the parties of this case. On the date of occurrence, about 1 ½ years ago, she was not at home. Returning home, came to know that there was some quarrel between the parties.

11. Now, from the evidence on record, it is seen that PW-3 Ranjan Nath is the prime witness in this case. This PW-3 in his depositions nowhere stated that the accused person made any attempt to kill him or voluntarily

caused hurt to him. Rather, in cross-examination, this PW-3 stated that due to misunderstanding, the incident took place. He, now, does not like to proceed with the case.

PW-2, the informant –cum- elder brother of the injured, is not an eye witness of the occurrence. He also does not support at all the prosecution case.

PW-4 is a hearsay witness and does not support at all the prosecution case.

PW-1, the MO, found simple, fresh injury on the person of the injured. The MO (PW-1) did not mention in the report about the age of the injury. Therefore, it cannot be ascertained that as to when the injured Ranjan Nath sustained the injury, as stated by the doctor (PW-1). So, the evidence of the MO is not reliable. Moreover, the injured (PW-3) himself did not state to have sustained any sort of injury.

15. Thus, it is seen that the ingredients of offences u/s 323/307/506/294 IPC are lacking in the present case.

16. In view of the above discussions and considering all aspects, I hold that the prosecution has failed to prove the case u/s 323/307/506/294 IPC against the accused, beyond all reasonable doubt. Hence, I acquit him from the said offences, on benefit of doubt.

17. The accused person be set at liberty forthwith. His bail bond stands cancelled.

18. The case is disposed of accordingly.

Given under my hand and seal of this Court on this day, the 28th day of May, 2015.

(P.C. Kalita)
Assistant Sessions Judge,
Sonitpur : Tezpur.

Dictated and corrected by me.

(P.C. Kalita)
Assistant Sessions Judge,
Sonitpur : Tezpur.

Dictation taken and
transcribed by me :

(J. K. Muru)
Steno.

A P P E N D I X

Prosecution witnesses :

PW-1	:	Dr. (Mrs.) Sangeeta Sarma
PW-2	:	Sri Rabin Nath
PW-3	:	Sri Ranjan Kr. Nath
PW-4	:	Smt. Kaushalya Devi

Defence Witness : Nil

Court Witness : Nil

Prosecution Exhibits :

Ext.1 : Medical report

Material Exhibits : Nil

Defence Exhibit : Nil

Court Exhibit : Nil

Exhibit produced by witness : Nil

(P.C. Kalita)
Assistant Sessions Judge,
Sonitpur : Tezpur.