

IN THE COURT OF JUDICIAL MAGISTRATE FIRST

CLASS, GOHPUR, SONITPUR

PR. Case No.187/2019

Under Sections 341, 323, 506 of the Indian Penal Code

STATE OF ASSAM

.....**PROSECUTION**

-VERSUS-

Mr. LUHIT BORDOLOI

S/O Lt. GHANA KANTA BORDOLOI

KAKILAGURI

P.S.- GOHPUR

DIST.- BISWANATH

.....**ACCUSED PERSON**

PRESENT: Mr. RAJ SEKHAR DUARA, JUDICIAL MAGISTRATE
FIRST CLASS, GOHPUR, SONITPUR

FOR THE PROSECUTION: Ms. SANTANA BHUYAN, APP

FOR THE ACCUSED: Mr. NABAJYOTI NEOG

PARTICULARS OF OFFENCE: 17.01.2020
EXPLAINED ON
EVIDENCE RECORDED ON: 08.11.2021, 20.12.2021
ARGUMENTS HEARD ON: 04.01.2022
JUDGMENT DELIVERED ON: 06.01.2022

JUDGMENT

FACTUAL SCENARIO

1. The Prosecution's case can be surmised as: one Ms. Rinkumoni Baruah had lodged an F.I.R. dated 30.06.2018 before the Officer-in-charge of Gohpur P.S. alleging inter alia that on 30.06.2018 at around 4 p.m. in the late afternoon, while her husband was travelling towards home was stopped at the National Highway near Kokila Chariali by the accused who was with a group of people and they had assaulted her husband with bamboo stick, giving blows over various parts of his body which left with injuries. On witnessing the assault, she tried to intervene but was herself assaulted by the group. She also carried injuries in the process. Hence, this case.

INVESTIGATION BY POLICE AND CHARGESHEET

2. On receipt of the F.I.R., Officer-in-charge, Gohpur P.S. registered the same as Gohpur P.S. Case No. 171/18 under Sections 143, 341, 325, 354 of the Indian Penal Code and conducted investigation into the matter. On conclusion of

such investigation, the police submitted charge-sheet against the accused person, Mr. Luhit Bordoloi under Sections 341, 325, 506 of the Indian Penal Code.

APPEARANCE OF THE ACCUSED AND TRIAL

3. In due course, the accused person appeared in compliance with the summons issued by this Court. Thereafter, copies of the relevant documents as mandated by Section 207, Cr.P.C was furnished to him. Subsequently, particulars of offence under Sections 341, 323, 506 of the Indian Penal Code were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

4. During trial, to substantiate their case, the prosecution examined 2 (two) witnesses and exhibited 2 (two) documents after which evidence for prosecution was closed. Subsequently, all the incriminating materials brought out in the Prosecution Evidence were put forth to the accused person and his statement as mandated by Section 313, Criminal Procedure Code were recorded, to which the accused replied in negative, denying his involvement in the instant case. Defense declined to adduce any evidence to support their case.

POINTS FOR DETERMINATION

5. Upon hearing both the parties and on perusal of the case record, the following points for determination have been formulated by this court to arrive at a definite finding.

i. Whether the accused persons, on or about the 30th day of June, 2018 at Kokila Chariali, wrongfully restrained the husband of the Informant and thereby committed an offence punishable under Section 341 of the IPC?

ii. Whether the accused person, on or about the same date and place voluntarily caused hurt to the Informant and her husband and thereby committed an offence punishable under Section 323 of the IPC?

iii. Whether the accused person, on or about the same date and place committed criminal intimidation by threatening the informant and her husband and thereby committed an offence punishable under Section 506 of the IPC?

6. I have carefully perused and deliberated upon the evidence brought on record and have keenly heard the

arguments advanced by the learned counsels of both sides. The defense denouncing all allegations has argued that no case has been made out against the accused person and that he has been falsely implicated in this case. The evidence brought forth is as under:

EVIDENCE

7. P.W.1, Mr. Nandeswar Borah had deposed that around 1 year back when the time was around 3:00- 4:00 p.m. in the afternoon, he had heard that the accused had a fight with another person in front of the house of Mr. Jatin Baruah at Kakila Chariali. He added that he had not witnessed the fight which had taken place some 250-300 metres from his own shop and that he had only heard about it.

8. P.W.2, A.S.I. Narayan Baruah has deposed that on 30.06.2017 while he was working as A.S.I. at Gohpur Police station, Gohpur P.S. Case no 171/2018 was filed by informant Ms. Rinkumoni Baruah against the accused. He was entrusted with the investigation of the case. He went to the place of occurrence, prepared the sketch map of the area and then recorded the statement of the witnesses. After conclusion of investigation, he had filed the charge-sheet under sections 341, 325, 506 of the Indian Penal code against the accused, Mr. Luhit Bordoloi. **Ext. 1** is the Sketch map and **Ext. 1(1)** is

his signature. **Ext. 2** is the charge sheet and **Ext. 2(1)** is his signature.

DISCUSSION, DECISION AND REASONS THEREOF

9. Points for determination no (i), (ii) and (iii): In the given facts and circumstances of this case as is evinced after analyzing the materials on record, it is deemed prudent to adjudicate upon the above points simultaneously and weigh them collectively against the evidence put forth by the witnesses. At the outset, it is imperative to underline that there are no eye witnesses to the incident. The prosecution though issued processes to the informant, they failed to procure her attendance and thus, she could not be examined as a witness. Reports also divulge that she had left her address upon the death of her husband, who had died during the course of trial. The only two witnesses examined by the prosecution, P.W.1, Mr. Nandeswar Borah is a here say witness as is evinced on a plain perusal of his testimony and the other is the I.O., P.W.2, Mr. Narayan Baruah. Thus in the absence of sufficient materials which could establish the guilt of the accused, in light of the observations made above, **these points are decided in negative.**

DECISION

10. Now the cardinal principle of criminal jurisprudence in India and the standard of proof in any criminal case is that the guilt of an accused has to be proved beyond reasonable doubt thereby assigning the Prosecution with the principal duty to prove such guilt. In the instant case, based on the holdings of this Court in the above points for determination, it is clear that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt. It is also apparent from the evidence of all the witnesses that there are no incriminating materials to constitute an offences punishable under Sections 341, 323, 506 of the Indian Penal Code.

ORDER

11. In view of the above deliberation and the decision arrived therein and after thorough consideration of all the materials on record, the accused person, Mr. Luhit Bordoloi is **acquitted** under Sections 341, 323, 506 of the Indian Penal Code and hereby set at liberty, forthwith with regards to the instant case.

12. The bail bond of the accused person and his surety shall remain in force for a period of 6 months from today in compliance with Section 437 (A) Criminal Procedure Code.

13. The Case is accordingly disposed of on contest.

14. The Judgment is pronounced in open Court in presence of the accused person, his counsel and the Ld. APP.

15. Given under my hand and seal of this court on this 6th day of January, 2022 at Gohpur.

Typed by me

(Raj Sekhar Duara)
Judicial Magistrate First Class
Gohpur, Sonitpur

SONITPUR DISTRICT JUDICIARY

APPENDIX

PROSECUTION WITNESSES:

P.W.1- Mr. Nandeswar Borah

P.W.2- A.S.I., Mr. Narayan Baruah

DEFENCE WITNESS: NONE

PROSECUTION EXHIBITS:

Exhibit 1: Sketch Map

Exhibit 2: Charge-sheet

DEFENCE EXHIBIT: NONE

(Raj Sekhar Duara)
Judicial Magistrate First Class
Gohpur, Sonitpur