

APPENDIX-12**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, SONITPUR****TEZPUR**

Present:- Sri Nabajit Bhatta. AJS. MA, LL.B.
Chief Judicial Magistrate,
Sonitpur, Tezpur

[Date of the Judgment]
12.10.2022

[PR Case No-242 of 2021]

(FIR NO-261/2021 DATED-03.02.2021/HOUSE TRESPASS/VOLUNTARILY CAUSING HURT/CRIMINAL INTIMIDATION/ MEMBER OF AN UNLAWFUL ASSEMBLY CASE AND TEZPUR POLICE STATION)

COMPLAINANT :	STATE OF ASSAM OR Md. Abdul Hamid, S/O:- Siddik Ali, R/O:- Nepalipatty, P/S:- Tezpur, Dist:- Sonitpur, Assam
REPRESENTED BY	Mrs. Karabi Das, Ld. Asst. P.P
ACCUSED PERSONS	<p>1. Md. Akram Hussain, S/O:- Md. Abdul Goni, R/O:- Nepalipatty, P/S:- Tezpur, Dist:- Sonitpur, Assam</p> <p>2. Md. Alom Hussain @ Gendela S/O:- Abdul Khalek, R/O:- Nepalipatty, P/S:- Tezpur, Dist:- Sonitpur, Assam</p> <p>3. Md. Salim Hussain S/O:- Jakir Hussain R/O:- Nepalipatty, P/S:- Tezpur, Dist:- Sonitpur, Assam</p>

	<p>4. Md. Afridi Hussain @ Sonu S/O:- Jakir Hussain R/O:- Nepalipatty, P/S:- Tezpur, Dist:- Sonitpur, Assam</p> <p>5. Md. Sabir Alom @ Papa S/O:- Late Mohammad Alom R/O:- Nepalipatty, P/S:- Tezpur, Dist:- Sonitpur, Assam</p>
REPRESENTED BY	Mr. Sarat Ch. Borah, Ld. Counsel

APPENDIX-13

Date of Offence	03.02.2021
Date of FIR	03.02.2021
Date of Charge Sheet	16.03.2021
Date of Offence Explanation	28.09.2022
Date of commencement of evidence	12.10.2022
Date on which judgment is reserved	12.10.2022
Date of Judgment	12.10.2022
Date of the Sentencing Order, if any	NIL

ACCUSED DETAILS :

Rank of the Accused	Name of the accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentenced Imposed	Period of Detention undergone during Trial for purpose of Sec. 428 Cr.P.C.
A-1	Md. Akram Hussain	NIL	NIL	Sec-448/323/506/143 of IPC	Acquitted	NIL	NIL
A-2	Md. Alom Hussain @ Gendela	NIL	NIL	Sec-448/323/506/143 of IPC	Acquitted	NIL	NIL
A-3	Md. Salim Hussain	NIL	NIL	Sec-448/323/506/143 of IPC	Acquitted	NIL	NIL
A-4	Md. Afridi Hussain @ Sonu	NIL	NIL	Sec-448/323/506/143 of IPC	Acquitted	NIL	NIL
A-5	Md. Sabir Alom @ Papa	NIL	NIL	Sec-448/323/506/143 of IPC	Acquitted	NIL	NIL

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

P. R. Case No-242 of 2021

State of Assam

-Vs-

1. Md. Akram Hussain
 2. Md. Alom Hussain @ Gendela
 3. Md. Salim Hussain
 4. Md. Afridi Hussain @ Sonu
 5. Md. Sabir Alom @ Papa
-Accused Persons

Under section-448/323/506/143 of I.P.C

Present:

Sri Nabajit Bhatta AJS. MA, LL.B.
Chief Judicial Magistrate, Sonitpur at Tezpur

12th day of October, 2022

Mrs. K. Das, Asst. P.P Advocate for the State
Mr. S. Borah, Ld. Counsel Advocate for the Accused

Date of Hearing : 12.10.2022
Date of Argument : 12.10.2022
Date of Judgment : 12.10.2022

J U D G M E N T

1. Prosecution story in brief is as follows that on 03.02.2021, informant, namely, Md. Abdul Hamid lodged an FIR before the O/C of Tezpur Police Station to the effect that on 03.02.2021, all the accused persons armed with sharp weapon went to the shop of his brother and assaulted him and due to that his brother sustained injury. It is also stated that all the accused persons further tried set fire to his shop with intend to damage his shop. It is stated that all the accused persons again took Rs.2000/- from the shop of his brother and threatened him of dire consequences of his life. Hence, the case.

2. The instant case was registered under section-397/294 of I.P.C. and police investigated the same. After completion of investigation police submitted charge-sheet against the accused persons under section-448/323/294/506/143 of I.P.C.
3. That my Ld. Predecessor in office took cognizance of the offence against the accused persons. On appearance of the accused persons copies of relevant documents were furnished to accused persons and particulars of offences under section-448/323/506/143 of I.P.C. were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.
4. Prosecution in order to prove the case has examined two numbers of witnesses including the informant in support of this case. Defence plea was total denial. Defence has adduced no evidence. Statement of the accused persons have been not recorded U/S-313 of Cr. P.C as nothing incriminating found against the accused persons from the evidence of the witnesses.
5. **POINTS FOR DETERMINATION:-**
 - (i.) Whether all the accused persons on 30.07.2022 have committed criminal trespass by entering into the shop of the informant's brother which was used as a human dwelling with intent to commit an offence and thereby committed an offence punishable u/s-448 of IPC?
 - (ii.) Whether the accused persons on the same date, time and place voluntarily caused hurt to the informant's brother, Md. Abdul Samed and thereby committed an offence punishable under section-323 of I.P.C.?
 - (iii.) Whether the accused persons on the same date, time and place have threatened the informant's brother of

dire consequences of his life and thereby committed an offence U/S- 506 of I.P.C.?

(iv.) Whether the accused persons on the same date, time and place were members of an unlawful assembly to commit an offence of trespass at the shop of the informant's brother and thereby committed an offence punishable under section 143 IPC?

6. Heard argument from the Ld. Advocate of the accused persons. On perusal of the evidence on record and case diary the very findings are as follows.

DISCUSSION, DECISION AND REASONS THEREOF

7. The prosecution opening the account of examining the witnesses first brought the witness, namely, Md. Abdul Samed as PW-1. The PW-1 has stated in his evidence-in-chief that the informant is his elder brother and he knows the accused persons of this case. He also stated that due to misunderstanding an incident took place between them around one year ago. He further stated that out of misunderstanding his elder brother lodged this case against the accused persons. He further stated that they also lodged a case against them Later on both parties amicably settled their dispute outside the court. In cross-examination, PW-1 has stated that he has no objection if the accused persons are released by this court.
8. PW-2, Md. Abdul Hamid being the informant of this case has stated in his evidence-in-chief that he knows the accused persons of this case. He also stated that due to misunderstanding an incident took place between them around one year ago. He stated that out of misunderstanding he lodged this case against the accused persons. He further stated that they also lodged a case against them Later on both parties amicably settled their dispute outside the court. He identified his ejahar as P.Ext-1 wherein he put his signature as P.Ext-1(1). In cross-examination, PW-2

has stated that he has no objection if the accused persons are released by this court.

9. I have minutely perused the evidences on record including the cross-examination of the witnesses. From the above discussions, no sufficient incriminatory materials have been found against the accused persons. Thus, keeping view of what has been discussed above this court has no least hesitation that the prosecution has failed miserably to establish the guilt of the accused persons U/S: 448/323/506/143 of I.P.C. Hence, the accused persons, namely, Md. Akram Hussain, Md. Alom Hussain @ Gendela, Md. Salim Hussain, Md. Afridi Hussain @ Sonu and Md. Sabir Alom @ Papa are not found guilty.

ORDER

Accused persons, namely, Md. Akram Hussain, Md. Alom Hussain @ Gendela, Md. Salim Hussain, Md. Afridi Hussain @ Sonu and Md. Sabir Alom @ Papa are acquitted from the Charges under section-448/323/506/143 of I.P.C. and set at liberty forthwith.

Bail-bond of the accused persons is extended for six months in view of section-437A of Cr PC.

Judgment is prepared and pronounced in open court. Given under my hand & seal of this court on this 12th day of October, 2022 at Tezpur.

(Sri Nabajit Bhatta)
Chief Judicial Magistrate,
Sonitpur: Tezpur

Dictated and Corrected by me

Chief Judicial Magistrate,
Sonitpur: Tezpur

APPENDIX -14
LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Md. Abdul Samed	VICTIM
PW-2	Md. Hamid Ali	INFORMANT

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**A. Prosecution:**

Sr. No.	Exhibit Number	Description
1	Ext-1/PW-1	Ejhar
2	Ext-1(1)	Signature of PW-1

B. Defence:

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

D. Material Objects:

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

Chief Judicial Magistrate,
Sonitpur: Tezpur