

**IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS AT
GOHPUR, SONITPUR**

G. R. Case No. 39 of 2018

U/S: 341/323 of IPC

The state of Assam

-Versus-

Ratul Saikia
(Son of Sri Nirmal Saikia,
Vill. - Kamdewal,
P.S. – Gohpur,
Dist. - Biswanath)

Accused person

PRESENT : Diganta Goswami, A.J.S.
Judicial Magistrate First Class, Gohpur

Date of framing of charge : 17.05.2018
Date of recording of evidence : 13.06.2018
Date of argument : 19.06.2018
Date of judgment : 20.06.2018
Ld. advocate for the state : The A.P.P.
Ld. advocate for the defence : Sri Debajit Dutta

JUDGMENT

1. The case of the prosecution is that informant Smt. Kankana Saikia, wife of Sri Durlabh Saikia, Village Tihulabari, P.S. – Gohpur lodged an FIR in the Hawajan Police Outpost under Gohpur Police Station on 01.02.2018 alleging that on 29.01.2018 at about 9 a.m. while her husband Durlabh Saikia for selling vegetables by riding a bicycle, the accused at Kamdewal Tiniali point accosted

and beat him by wooden log on his head and other parts of the body. It was also alleged that the accused spilled his vegetables worth about rupees one thousand, apart from looting cash amount of rupees five thousand from him. She, therefore, prayed for doing an investigation into the matter and taking necessary steps for punishing the culprit accordingly.

2. The FIR was received vide Hawajan Outpost G.D. Entry No. 05, dated 01.02.2018 and forwarded to the Officer-in-Charge, Gohpur Police Station for registering a case. Sub-inspector Sri Padmeswar Borkotaki was entrusted with the task of investigation of the case. The FIR was received and registered vide Gohpur Police Station case No. 37/18, dated 02.02.2018, u/s 341/325/427 of the Indian Penal Code.
3. The police after investigation submitted charge-sheet against the accused Sri Ratul Saikia u/s 341/325 of IPC. On receipt of summons, he appeared before the court and was released on bail. Copies were served to him. On careful perusal of the record it transpired that the accused committed offence under section 341/323 of the Indian Penal Code and hence charge under those sections were framed against him. The particulars of offence u/s 341/323 of the IPC were read over and explained to him, to which he pleaded not guilty and claimed to be tried.
4. Evidence of the witnesses was recorded and finding no incriminating materials against the accused person, recording of statement of the accused under section 313 Cr.P.C was dispensed with. The accused declined to adduce defence evidence. I have heard the learned A.P.P. and the learned counsel for the defence. I have also carefully gone through all the evidence adduced and meticulously scrutinised the entire case record.

5. POINTS FOR DETERMINATION

- (i) Whether the accused person Sri Ratul Saikia on 29.01.2018 at about 9 a.m. at Kamdewal Tinali wrongfully restrained Sri Durlabh Saikia, the husband of the informant and thereby committed an offence under section 341 of the IPC?

- (ii) Whether the accused on the same day and at same time and place voluntarily caused hurt to Sri Durlabh Saikia and thereby committed an offence under section 323 of the IPC?

DISCUSSION, DECISION AND REASONS THEREOF

To decide on the given points, the prosecution evidence is hereby discussed as follows:

6. The prosecution side to prove its case examined 3 (three) witnesses. P.W. 1 Smt Kankana Saikia stated in her deposition that on 29.01.2018 the accused had a fight with her husband. Her husband had a vegetable shop. When her husband went out carrying vegetables on a bicycle, the accused Ratul Saikia accosted him and started an altercation with him. They engaged in some pushing and pulling each other. During this her husband got some minor injuries, nothing serious happened. Now there has been understanding between them. All are living peacefully. She stated that she would have no objection if the accused is acquitted.

7. Her cross-examination was declined.

8. P.W. 2 Sri Durlabh Saikia, the alleged victim stated that the informant was his wife. On 29 January, Monday, 2018 in the morning he went out to sell vegetables in the village riding on a bicycle. While going, the accused met him on the road and following an altercation a scuffle ensued between them. He fell down and got some minor injuries on his head. He fell down as he slipped. There was nothing more than that. Later, there was a compromise with the accused with regards to the matter. There was some misunderstanding and lack of communication following which his wife lodged the case in the police station. Now they are living well. He added that he would have no objection if the accused is acquitted.

9. His cross-examination was declined.

10. P.W. 3 Smt. Tulumai Saikia stated that the informant was her daughter-in-law. It was in the month of January last when his son Durlabh Saikia went for selling vegetables, there was a quarrel between the accused and him. His son fell down and got some minor injuries. Now they have settled the matter. The accused is also a person from that locality. She would have no objection if the accused is acquitted.

11. Her cross-examination was declined.

12. When we look at the deposition of the prosecution witnesses, we find that there was an altercation and a scuffle between the accused Ratul Saikia and Durlabh Saikia, the husband of the informant. When Durlabh Saikia was going to sell vegetables riding on a bicycle on 29.01.2018, he met the accused at Kamdewal Tiniali point. Both of them got engaged in an altercation on some silly matters. Accused Ratul Saikia is also a businessman. Following the altercation, they started pushing and pulling each other on the road itself. During this scuffle, Durlabh Saikia slipped and fell down on the road. As a result, he got some minor injuries but nothing serious happened. The victim Durlabh Saikia stated that due to some misunderstanding and lack of communication, the case was lodged, which was rectified later on. All the prosecution witnesses stated the same facts and matters. They also stated that both the parties have reconciled the matter and settled it between them. The informant went on to add that he would have no objection if the accused is acquitted of the case.

ORDER

In view of the discussion made above and the decisions reached in the foregoing points for determination, it is held that the prosecution has failed to prove beyond reasonable doubt that the accused person Ratul Saikia committed the offence under section 341/323 of the Indian Penal Code as alleged.

As such the accused Ratul Saikia is acquitted of the charges under section 341/323 of the IPC on benefit of doubt and he is set at liberty forthwith.

The bail bond of the accused shall remain valid for six months from today as per section 437 of the Cr.PC.

Judgment is pronounced in the open court. The case is disposed of on contest.

The judgment is given under my hand and seal of this court on the 25th day of June, 2018.

DIGANTA GOSWAMI
JMFC, GOHPUR

ANNEXURE

Witnesses for the Prosecution:

PW 1 Smt. Kalpana Saikia
PW 2 Sri Durlabh Saikia
PW 3 Smt. Tulumoni Saikia

Witness For The Defence: NIL

Exhibits :

Ext. 1 - F.I.R.

DIGANTA GOSWAMI
JMFC, GOHPUR