

IN THE COURT OF JMFC-20,
SONITPUR, TEZPUR

Present: **Shri Vishhek Bhuyan,**
AJS

[Date of the Judgment]
15-10-2022

[GR Case No : 649/2014]

(Details of FIR/ Crime and Police

Station)

Complainant :	STATE OF ASSAM OR Sri Minu Das
REPRESENTED BY	Learned A.P.P Sri Niranjan Saikia
ACCUSED PERSONS	A1. Promod Sah S/o- Sri Mathura Sah A2. Robin Baishya S/o- Sri Haren Baishya A3- Ram Bilash Singh S/o- Sri Sikandar Singh A4-Indrajit Das S/o- Late Umesh Das A5- Vijay Kr. Sah S/o- Sri Mathura Sah A6- Kamal Ch. Das. S/o- Late Umesh Das All are residents of Vill- Betonijhar P.S- Tezpur, Sonitpur
REPRESENTED BY	Ld. Counsel I. Ansari

FORM B

Date of Offence	18.03.2014
Date of FIR.	18.03.2014
Date of Charge-sheet	31.01.2015
Date of offence explained	11.08.2022
Date of commencement of evidence	17.05.2018
Date on which judgment is reserved	NIL
Date of the Judgment	27.09.2022
Date of the Sentencing Order, if any	NIL

Accused Details

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention undergone during Trial for purpose of Section 438, Cr.P.C.
	A1 Pro-mod Sah	NA	05.1.2016	147/148/448/427 IPC	Acquitted	NIL	
	A2 Robin Baishya	NA	16.12.2016	147/148/448/427 IPC	Acquitted	NIL	
	A3 Ram Bilash Singh	NA	05.1.2016	147/148/448/427 IPC	Acquitted	NIL	
	A4 In-drajit Das	NA	05.1.2016	147/148/448/427 IPC	Acquitted	NIL	

	A5 Vi-jay Kr. Sah	NA	05.1.2016	147/148/448/427 IPC	Acquitted	NIL	
	A6 Ka-mal Ch. Das	NA	05.1.2016	147/148/448/427 IPC	Acquitted	NIL	

Form C

A. Prosecution

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Nilima Baishya	Other witness
PW 2	Minu Das	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 P1/PW1	Ejhar
2	Ext P1(1) and 1(2)	Signatures

A. Defence:

Sr. No	Exhibit Number	Description
NIL	NIL	NIL

A. Court Exhibits

Sr. No	Exhibit Number	Description
NIL	NIL	NIL

A. Material Objects:

Sr. No	Material Object Number	Description
NIL	NIL	NIL

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST
CLASS**

TEZPUR, ASSAM

G.R CASE NO: 649 OF 2014

U/Sec 147/148/448/427 of Indian Penal Code

State of Assam

.....PROSECUTOR

-Vs-

A1. Promod Sah

S/o- Sri Mathura Sah

A2. Robin Baishya

S/o- Sri Haren Baishya

A3- Ram Bilash Singh

S/o- Sri Sikandar Singh

A4-Indrajit Das

S/o- Late Umesh Das

A5- Vijay Kr. Sah

S/o- Sri Mathura Sah

A6- Kamal Ch. Das.

S/o- Late Umesh Das

All are residents of Vill- Betonijhar

P.S- Tezpur, Sonitpur

.....ACCUSED PERSONS

PRESENT: VISHEK BHUYAN, LL.M, AJS
JUDICIAL MAGISTRATE FIRST CLASS, TEZPUR

FOR PROSECUTION : LD. APP. Sri Niranjan Saikia

FOR DEFENCE : Ld. Counsel I.A Ansari

EVIDENCE RECORDED : 17.05.2018 and 06.01.2020

ARGUMENTS HEARD ON : 26.09.2022

JUDGEMENT DELIVERED ON : 15.10.2022

JUDGMENT

1. The accused persons namely Promod Sah, Robin Baishya, Ram Bilash Singh, Indrajit Das, Vijya Kr. Sah and Kamal Ch. Das stood trial for offences punishable under Sections 147/148/448/427 of Indian Penal Code (hereinafter IPC).

Information and Investigation

2. The genesis of this case has its roots with the lodging of Ejahar by informant Minu Das is that on the day of the incident i.e. 17.03.2014 at about 6:30 PM, the accused persons forcefully entered into the premises of the informant and starting destroying things and also physically assaulted everyone present in the house. Hence this case.

3. The Ejahar was received and registered as Tezpur P.S Case no. 314/14 U/s 147/148/448/427/436/511 of IPC. The police after investigation submitted charge sheet against the accused person under Sections 147/148/448/427 of IPC.

Trial

4. Cognizance was taken of the Charge sheeted offences and processes were issued upon which the accused persons appeared and copies of the relevant documents were furnished to them in compliance with section 207 of Code of Criminal Procedure (hereinafter referred as Cr.P.C). The particulars of the offences were explained to the accused person, to which they pleaded not guilty and claimed to be tried.
5. In this case, the prosecution has examined the informant as PW-1. Considering testimony of the informant, the prosecution declined to further adduce evidence in this case. Hence, the evidence of prosecution side is closed. Examination of accused persons u/s 313 Cr.P.C dispensed with as the prosecution did not adduce any implicating evidence against them.

6. After hearing the learned Counsel of both sides and after perusal of the case record, I do hereby frame the following points of determination.

POINTS FOR DETERMINATION

- i. Whether the accused persons used force or violence while being a member of unlawful assembly and thereby committed an offence punishable U/s 147 of IPC?***

- ii. Whether the accused persons committed rioting while armed with deadly weapon and thereby committed an offence punishable U/s 148 of IPC ?***

- iii. Whether the accused persons committed criminal trespass into the house of the informant and thereby committed an offence punishable U/s 448 of IPC?***

- iv. Whether the accused persons committed mischief causing loss of more than amount of Rs 50 to the informant and thereby committed an offence punishable U/s 427 of IPC?***

PROSECUTION EVIDENCE

7. **P.W 1 Nilima Baishya** states that the informant is her elder sister and she knows the accused person. The incident took place in March, 2014 at her house. The incident occurred at 6:30 PM. On the day of Holi the accused and Akash Munda were fighting with each other, the other accused person mistook her for being involved in the scuffle and started threatening her from outside her house. The accused persons then started destroying the property of the informant such as Verandah grill, window, disk, door, electricity meter etc. The accused persons threw bricks at her house. By the time the Police arrived, the accused persons already fled. **In her cross examination** she states that on the day of Holi, Akash Munda was arrested by the Police. Balbir Singh's house is about 100 meters away from her house. She does not know whether Balbir Singh was taken for medical treatment to Guwahati. Her house was surrounded by the whole village. She does not know how many people were present. At the time of incident it was dark. On the day of the incident the Police took her statement. The

Police was informed by an employee of her office. Police seized some broken articles.

8. **PW-2 Minu Das** is the informant of this case. She knows the accused person who is from her village. On the day of the incident there were many people among whom the accused persons were also present. But she did not witness who broke the house. She filed the ejahar purely on suspicion. And presently she does not any objection against the accused persons. **In her cross examination** she deposed that she came to later on that the accused persons were not present at the place of occurrence and she has no objection if the accused persons are acquitted from the case.

DISCUSSIONS, DECISIONS AND REASONS **THEREOF**

9. Upon perusal of the evidence it is seen that the informant is not willing to proceed with the case as she filed the case on mere suspicion. Furthermore, she deposed in her cross examination that the accused persons were not present at the place of occurrence during the time of incident, which she came to know later and that she does not have any objection if the accused persons are acquitted from the case.

10. As such the prosecution has failed to prove that the accused persons have committed the offences under sections 147/148/448/427 of IPC beyond reasonable doubt.

ORDER

In light of the above, it is held that the prosecution has failed to prove the case U/s 147/148/448/427 of IPC against the accused persons namely Promod Sah, Robin Baishya, Ram Bilash Singh, Indrajit Das, Vijay Kr. Sah and Kamal Ch. Das beyond all reasonable doubt. Hence, they are hereby **acquitted** and set at liberty forthwith.

However, their bail bond shall remain in force for a period of next 6 (six) months as provided by section 437A Cr.P.C.

Given in my hand and under the seal of this court on this the 15th day of October, 2022.

Typed by Me:

Sri Vishek Bhuyan

Judicial Magistrate First Class, Tezpur

APPENDIX

Prosecution Witness:

PW-1: Nilima Baishya

PW-2: Minu Das

Defence Witness:

NIL

Prosecution Exhibits:

Exhibit/ P-1:Ejahaar

Exhibit/ P-1(1) and P-1(2): Signature of the informant.

Defence Exhibits:

NIL

Sri Vishek Bhuyan

Judicial Magistrate First Class, Tezpur.