

<b>IN THE COURT OF SUB-DIVISIONAL MAGISTRATE(S)</b> <b>Present : Smti Nazrana P. Rehman, S.D.J.M. (S),</b> <b>Sonitpur, Tezpur.</b> <b>07.09.2022</b>  <b>(GR Case No. 907/2017)</b>  <b>FIR No. 473 Dated 14.03.2017</b> <b>U/S 447/323/427/34 IPC</b> <b>Tezpur P.S.</b>	
<b>COMPLAINANT:</b>	<b>STATE OF ASSAM</b>
<b>REPRESENTED BY:</b>	<b>NAME OF ADVOCATE</b> Sri R.K. Goswami, Learned A.P.P.
<b>ACCUSED:</b>	<b>1. Sri Rajesh Das</b> S/O. Lt. Huruka Das <b>2. Sri Ramen Saikia</b> <b>3. Sri Muhit Saikia</b> Both are S/O. Lt. Upen Saikia <b>4. Sri Dhani Ram Saikia</b> S/O. Sri Dinesh Saikia <b>5. Sri Dip Jyoti Saikia</b> S/O. Sri Uttam Saikia all are R/O Vill. Borjhar, Saikia Chuburi, PS:- Tezpur Dist:-Sonitpur (Assam).
<b>REPRESENTED BY:</b>	<b>NAME OF THE ADVOCATE</b> Sri A.K. Saikia and Smti. Popy Borah, Learned Counsels

Date of Offence	12.03.2017
Date of FIR	14.03.2017
Date of Charge Sheet	26.04.2017
Date of framing Charges	17.05.2018 (offence explain)
Date of commencement of evidence	07.09.2022
Date on which judgment is reserved	07.09.2022
Date of Judgment	07.09.2022
Date of the Sentencing Order, if any	NA

Rank of the accused	Name of Accused	Date Of Arrest	Date Release on Bail	Offences Charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec. 428 Cr.P.C.
1.	Sri Rajesh Das	NA	NA	447/323/427 /34 IPC	Acquitted	NA	NA
2.	Sri Ramen Saikia	NA	NA	447/323/427 /34 IPC	Acquitted	NA	NA
3.	Sri Muhit Saikia	NA	NA	447/323/427 /34 IPC	Acquitted	NA	NA
4.	Sri Dhani Ram Saikia	NA	NA	447/323/427 /34 IPC	Acquitted	NA	NA
5.	Sri Dipjyoti Saikia	NA	NA	447/323/427 /34 IPC	Acquitted	NA	NA

## **J U D G M E N T**

**1.** The brief facts of the prosecution story as unfurled from the ejahar which was lodged by Sri Runjyoti Saikia is that on 12.03.2017 at about 9:00 p.m. the accused persons wrongfully entered into the campus of informant and assaulted informant's mother Smti. Junu Saikia with sharp weapon causing grievous injuries to her. That apart, the accused persons broke front windshield of one Auto bearing registration no. AS-12E-5763 which was standing in front of informant's house. ***Hence, the ejahar was lodged to that effect.***

### **INVESTIGATION**

**2.** Based on the ejahar, police registered **Tezpur P.S. Case No. 473/2017** under section **447/326/427/34 IPC** against the accused persons and started investigation. During the course of investigation, the police visited the place of occurrence, prepared the sketch map and recorded the statement of the witnesses U/S 161 Cr.P.C. After completion of investigation, police laid charge sheet **U/S 447/326/427/34 IPC** against the accused persons **Sri Rajesh Das, Sri Ramen Saikia,**

**Sri Muhit Saikia, Sri Dhani Ram Saikia and  
Sri Dipjyoti Saikia.**

**APPEARANCE**

**3.** In due course, the accused persons appeared on receipt of summons before the court to face trial of the case. The copies of the relevant documents were furnished to the accused persons in compliance of section 207 Cr.P.C. The formal charge **U/S 447/326/427/34** IPC were framed and the content of the said charges were read over and explained to the accused persons **Sri Rajesh Das, Sri Ramen Saikia, Sri Muhit Saikia, Sri Dhani Ram Saikia and Sri Dipjyoti Saikia** to which they pleaded not guilty and claimed to be tried.

**TRIAL**

**4.** At the trial, the prosecution examined **3 (Three) witness** who are the informant/victim of the case. The learned A.P.P. after examination of the informant/victim prayed to close the evidence of the prosecution as on their examinations nothing incriminating appeared against the accused persons and as such submitted that continuing with the prosecution shall be only a mere formality. Thereafter, as per submission of the learned A.P.P., the

evidence of the prosecution was closed. The examination of the accused persons under section 313 Cr.P.C was dispensed with. The arguments of the learned counsels of both sides were heard.

**POINT FOR DETERMINATION:**

- i. Whether the accused persons on 16.11.2015 at about 4:00 pm, in furtherance of their common intention, entered into the property of the informant with intent to commit an offence and thereby committed an offence u/s 447/34 of IPC?
- ii. Whether the accused persons on the same day and time, in furtherance of their common intention, voluntarily caused hurt to the informant's mother and thereby committed an offence u/s 323/34 of IPC?
- iii. Whether the accused persons on the same day and time, in furtherance of their common intention, had committed mischief by damaging the one Auto, and thereby committed offence u/s 427/34 of IPC?

**DISCUSSION, DECISION AND REASON**

**THEREOF:**

**5.** I have carefully perused the evidence available in the record. I have also carefully scrutinized the case record and the other documents available in the case record. I have also duly considered the arguments advanced by the learned counsels of both sides.

**6.** The **PW-1, Sri Runjyoti Saikia**, the informant of the case, in his **examination-in-chief** deposed that he is the informant of this case. he knows the accused persons. They are from his same village. About 5 years back, as there was an altercation between them and the accused persons due to some misunderstanding, hence out of anger, he lodged this case. But subsequently the matter has been amicably settled between them and the accused persons. Hence, he does not want to proceed with the case. **Exhibit P-1/PW1 is the ejahar and Exhibit P-1(1) is his signature.** During **cross examination** he submitted that he has no objection if the accused persons are acquitted from the charges against them.

**7.** The **PW-2, Smti. Junu Saikia**, in her **examination-in-chief** deposed that the

informant of the case is her son. She knows the accused persons. They all are from her same village. About 5 years back, there was an altercation between her son and the accused persons due to some misunderstanding. There was also an altercation between her and the accused persons out of misunderstanding. During such altercation, she fell down and sustained injuries. Hence out of anger, her son lodged this case. But subsequently the matter has been amicably settled between them and the accused persons. Hence I do not want to proceed with the case. During **cross examination** she submitted that she has no objection if the accused persons are acquitted from the charges against them.

**8.** The **PW-3, Smti. Bharati Saikia**, in her **examination-in-chief** deposed that the informant of the case is her husband. She knows the accused persons. They are from her same village. About 5 years back, there was an altercation between her husband and the accused persons due to some misunderstanding. During such altercation, her mother-in-law fell down and sustained injuries. Hence out of anger, her husband lodged this case. But subsequently the matter has been

amicably settled with the accused persons.  
Cross-examination is declined.

**9.** On careful perusal of the evidence on record, nothing incriminating appeared against the accused persons. Rather, from the evidence on record, it becomes crystal clear that the PW-1 and PW-2 who are the informant and victim of the case and prime witness in the case have deflected from the allegations set forth in the ejahar. Informant and victim have not implicated the accused persons of any offence. PW-2 deposed that she sustained injuries by falling down. Further, both PW-1 and PW-2 deposed that out of misunderstanding due to a mere altercation, the instant case has been lodged. But, subsequently the matter has been amicably settled with the accused persons. Hence, they does not want to proceed with the case. Moreover, they clearly stated that they have no objection if the accused persons are acquitted. PW-3 also in the same tune deposed that there was a mere altercation between her husband and the accused persons out of misunderstanding.

**10.** Now, only on a case lodged on the basis of mere misunderstanding an accused persons



cannot be convicted of any offence. There must be clear, unequivocal and unambiguous evidence on record to establish the complicity of the accused persons with the alleged occurrence. But, on careful scrutiny of the evidence on record, it appears that no such evidence is forthcoming in this instant case in hand. As such, the prosecution rightly stated that continuation of the case shall only be a bare formality in absence of any incriminating materials against the accused persons. Thus, on consideration of the facts and circumstances of the case as discussed herein above, the accused persons are not found guilty of the alleged offence.

**11.** In view of the discussions made herein above, this court is of the considered opinion, that the prosecution has failed to prove the charges under section U/S 447/323/427/34 IPC against the accused persons beyond all reasonable doubt and hence the accused persons are not found guilty of the offences under section 447/323/427/34 IPC.

**ORDER**

**12.** I found the accused persons **Sri Rajesh Das, Sri Ramen Saikia, Sri Muhit Saikia,**

**Sri Dhani Ram Saikia and Sri Dipjyoti Saikia** not guilty **U/S 323/294/ 354/34 IPC** and accordingly, the said accused persons are acquitted of the charge of the said offence and set at liberty forthwith.

**13.** The bail bonds shall remain in force for a further period of six months as per section 437-A Cr.P.C.

Signed, sealed and delivered in the open court on this 07<sup>th</sup> day of September, 2022 at Tezpur.

Nazrana P. Rehman  
Sub-Divisional Judicial Magistrate (S),  
Sonitpur, Tezpur, Assam

**LIST OF PROSECUTION WITNESS**

**A. Prosecution:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b>
PW-1	Sri Runjyoti Saikia	Informant
PW-2	Smti. Junu Saikia	Victim
PW-3	Smti. Bharati Saikia	Other witness

**B. DEFENCE:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b>
	NIL	

**C. COURT:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b>
	NIL	

**LIST OF PROSECUTION/ DEFENCE / COURT EXHIBITS**

**A. Prosecution:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1.	Exhibit -1	Ejahaar

**B. DEFENCE**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b>
	NIL	

**C. COURT**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b>
	NIL	

**A. MATERIAL OBJECTS:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b>
	NIL	

Nazrana P. Rehman  
Sub-Divisional Judicial Magistrate (S),  
Sonitpur, Tezpur, Assam