

**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]  
**31.10.2022**

**[GR Case No-1821 of 2016]**

(FIR NO-984/2016 DATED-11.06.2016/RIOTING/VOLUNTARILY CAUSING GRIEVOUS HURT/WRONGFUL CONFINEMENT/OBSCENE ACTS AND SONGS/CRIMINAL INTIMIDATION CASE AND TEZPUR POLICE STATION)

COMPLAINANT :	STATE OF ASSAM OR Md. Osman Ali, S/O:- Abdul Hekim, R/O:- Ahatguri, P/S:- Tezpur, Dist:- Sonitpur, Assam
REPRESENTED BY	Mr. Nalini Kanta Mishra, Ld. Addl. P.P Smt. Karabi Das, Asst. P.P.
ACCUSED PERSONS	<p>1. Sri Krishna Bhumij S/O:- Late Satar Singh Bhumij, R/O- Ahatguri Balitika, P/S:- Tezpur, Dist:- Sonitpur, Assam</p> <p>2. Sri Mintu Mora @ Bhumij, S/O:- Sri Nigru Mora @ Bhumij, R/O- Ahatguri Balitika, P/S:- Tezpur, Dist:- Sonitpur, Assam</p> <p>3. Sri Putu Bhumij @ Putu S/O:- Sri Krishna Bhumij, R/O- Ahatguri Balitika,</p>

	<p>P/S:- Tezpur, Dist:- Sonitpur, Assam</p> <p>4. Sri Chutu Bhai @ Hriday Mura S/O:- Late Saita Mura, R/O- Ahatguri Balitika, P/S:- Tezpur, Dist:- Sonitpur, Assam</p> <p>5. Sri Soniram Bhumij @ Anil Bhumij S/O:- Sri Krishna Bhumij, R/O- Ahatguri Balitika, P/S:- Tezpur, Dist:- Sonitpur, Assam</p>
REPRESENTED BY	Mr. Babul Borthakur, Ld. Counsel

**APPENDIX-13**

Date of Offence	09.06.2016
Date of FIR	10.06.2016
Date of Charge Sheet	31.07.2016
Date of Framing of Charge	24.04.2019
Date of commencement of evidence	21.06.2019
Date on which judgment is reserved	15.10.2022
Date of Judgment	31.10.2022
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	Sri Krishna Bhumij	NIL	NIL	Sec-147/325/342/294/506 of IPC	Acquitted	NIL	NIL
A-2	Sri Mintu Mora @ Bhumij	NIL	NIL	Sec-147/325/342/294/506 of IPC	Acquitted	NIL	NIL
A-3	Sri Putu Bhumij @ Putu	NIL	NIL	Sec-147/325/342/294/506 of IPC	Acquitted	NIL	NIL

A-4	Sri Chutu Bhai @ Hriday Mura	NIL	NIL	Sec-147/325/342/294/506 of IPC	Acquitted	NIL	NIL
A-5	Sri Soniram Bhumij @ Anil Bhumij	NIL	NIL	Sec-147/325/342/294/506 of IPC	Acquitted	NIL	NIL

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

**G. R. Case No-1821 of 2016**

State of Assam

-Vs-

1. Sri Krishna Bhumij
2. Sri Mintu Mora @ Bhumij
3. Sri Putu Bhumij @ Putu
4. Sri Chutu Bhai @ Hriday Mura
5. Sri Soniram Bhumij @ Anil Bhumij

.....Accused Persons

Under section-147/325/342/294/506 of I.P.C

*Present:*

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

15<sup>th</sup> day of October, 2022

Mr. N. K. Mishra, Ld. Addl. P.P ..... Advocate for the State  
Mr. B. Borthakur, Ld. Counsels ..... Advocate for the Accused

Date of Hearing : 21.06.2019, 27.10.2021, 29.11.2021

17.06.2022 & 07.09.2022

Date of Argument : 29-09-2022 & 15.10.2022

Date of Judgment : 31.10.2022

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

1. Prosecution story in brief is as follows that on 10.06.2016 the informant Md. Osman Ali lodged an Ejahar before the O/C of Tezpur Police Station to the effect that on 09.06.2016 at about 08:30 PM, all the accused persons have assaulted his nephew namely, Afajul Islam with a Khukuri on his head and due to that his nephew sustained cut injury on his head. It also stated that the accused persons also assaulted the victim with

iron rod. It is further stated that the accused persons also abusive them using filthy languages. Hence, the prosecution case.

2. The instant case was registered under section-143/326/342/294/506 of Indian Penal Code and police investigated the same. After completion of the investigation, police submitted the charge-sheet against the accused persons under section-143/326/342/294/506 of Indian Penal.
3. That my Ld. Predecessor in office took cognizance of the offence against the accused persons. On appearance of both the above-named accused persons copies of relevant documents were furnished to them and the charges under section-147/325/342/294/506 of I.P.C. was framed against the accused persons and the said charge was read over and explained to the accused persons by my Ld. Predecessor in Office to which they pleaded not guilty and claimed to be tried.
4. Prosecution in order to prove the case has examined as many as 07 (Seven) numbers of witnesses including informant, medical officer and the investigating officer in support of this case. Defence plea was total denial. Defence has adduced no evidence. Statements of the accused persons have been recorded under section-313 of Cr. P.C.
5. **POINTS FOR DETERMINATION:-**
  - (i.) Whether the accused persons on 09.06.2016 at about 08:30 PM at Ahatguri Balitika under Tezpur PS along with others were a member of an unlawful assembly, and, in prosecution of the common object of such assembly, committing the offence of rioting and thereby committed an offence punishable under section-147 of I.P.C.?
  - (ii.) Whether the accused persons on the same date, time and place voluntarily caused grievous hurt to the

nephew of the informant and thereby committed an offence punishable under section-325 of I.P.C.?

(iii.) Whether the accused persons on the same date, time and place have wrongfully confined the nephew of the informant and thereby committed an offence punishable under section-342 of I.P.C.?

(iv.) Whether the accused persons on the same date, time and place have uttered obscene words and language on the nephew of the informant to the annoyance of others and thereby committed an offence punishable under section-294 of I.P.C.?

(v.) Whether the accused persons on the same date, time and place have committed criminal intimidation by threatening the nephew of the informant with injury to his person and thereby committed an offence punishable under section-506 of I.P.C.?

6. Heard argument from the Ld. Advocate of the both sides. 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 informant, namely, Md. Osman Ali as PW-1. The PW-1 has stated in his evidence-in-chief that he knows all the accused persons of this case. He also stated that the incident took place in the year 2016 one day at around 08:30 PM. He stated that on the date of incident, accused Krishna Bhumij called his nephew Afazul Islam to his house and thereafter, his nephew went to his house and later at night he came to know that all the accused assaulted had his nephew and thereafter, the accused persons tied the hand of his nephew and keep him confined under the bed. He further stated that on being came to know about the

same he along with the parents of his nephew and 2-4 villagers went to the house of accused Krishna Bhumij wherein they found the victim in a tied condition. He also stated that he saw injuries on the head and back of his nephew. He stated that after recovery of his nephew, in the next day he went to the police station to lodge the ejahar and after that the victim was taken to Civil Hospital for his treatment. He identified his ejahar as Ext-1 wherein he puts his signature as Ext-1(1) and Ext-1(2).

8. In cross-examination, PW-1 has stated that he forget the date of alleged incident. He further stated that after recovery of the victim he lodged the ejahar in the next day of incident and the victim was already admitted at the hospital. He stated that he could not remember as to whose mohori write the ejahar. He also stated that his house is at Solmara Balitika and the house of his nephew is at Ahatguri. He stated that the house of the accused persons is at Ahatguri. He further stated that his house is about half kilometre away from the house of his nephew. He further stated that at around 01:30 AM, he came to know that his nephew was confined at the house of accused persons. He stated that the place of occurrence is about 2 KM away from the police station. He also stated that his brother already informed about the alleged incident to Goroimari OP over phone. He further stated that police arrived at place of occurrence in between 09:00 AM to 09:30 AM and recorded the statement of the villagers of Lal Gaon. He stated that police met him and victim, namely, Afajul at Civil Hospital wherein police took their statement. He also stated that police took his statement at around 11 AM to 12 AM. He further stated that he did not know why his nephew went to the house of the accused Krishna Bhumij on the date of alleged incident. He also stated that before arrival of police they took the victim from the house of accused Krishna Bhumij.
9. PW-2, Md. Iddrish Ali in his evidence-in-chief has stated that he knows the informant and the accused persons of this case. He also stated that 5



year back one day at night he came to know that accused persons assaulted Afajul Islam. He further stated that the incident occurred at night and on next day morning he came to know about the incident from the co-villagers. He also stated that he heard that Afajul was shifted to Hospital. He further stated that he heard that Afajul was beaten by iron rod, dao etc. He stated that he met Afajul at hospital and saw injury on his head.

10. In cross-examination, PW-2 has stated that Afajul was admitted at Kanaklata Hospital. He further stated that he saw bandage on the head of Afajul. He also stated that as he has not seen the incident he could not say how injury was sustained by Afajul. He stated that he has not seen rod, dao etc.
11. PW-3, Md. Afajul Islam being the victim of this case in his evidence-in-chief has stated that the informant is his uncle. He stated that he knows the accused persons of this case. He also stated that 4/5 years back at night, he was coming through their village road and when he arrived in front of the house of accused persons the incident took place. He further stated that accused persons namely Mintu, Soniram, Putul, Krishna and his father wrongfully restrained him and assaulted him by using dao like article. He also stated that the accused persons assaulted him on his head, hand and other parts of his body and thereafter, he become senseless. He further stated that before the incident he had a quarrel with the accused persons over cutting of paddy. He stated that he took treatment from the hospital and his uncle lodged ejarah in this case. He further stated that he sustained injury on his head and other parts of his body.
12. In cross-examination, PW-3 has stated that he has not stated before the police that 4/5 years back at night, he was coming through their village

road and when he arrived in front of the house of accused persons the incident took place.

13. PW-4, Md. Abdul Jalil has stated in his evidence that he knows the informant and the accused persons of this case. He also stated that around 5 year back one day at night incident took place. He further stated that later on he came to know from Afajul that accused persons physically assaulted him by using dao like article. He also stated that Afajul sustained injury on his head, hand and other parts of his body and Afajul took treatment at hospital.
14. In cross-examination, PW-4 has stated that police not recorded his statement. He further stated that he did not state anything before the police about the incident. He admitted that he does not know how Afajul sustained injury.
15. PW-5, Dr. Munin Ch. Pujari being the Medical Officer of this case has stated in his evidence-in-chief that on 10.09.2016 he was posted as Senior Medical and health Officer at KCH and on that day he examined one Afajul Islam. On examination he found the following:-(i) 1 inch lacerated injury over frontal region; (ii) Multiple bruises over right shoulder, both the hands and over lower abdomen; (iii) Smell of alcohol;. He stated that the patient was admitted at male surgical ward after first aid for further needful. He identified the medical examination report of victim as Ext-2 wherein he put his signature as Ext-2(1).
16. In cross-examination, PW-5 has stated that there was no police requisition number mentioned in his medical report. He also stated that he did not mention the nature and time of injury.
17. PW-6, Dr. Hiranjan Saikia being the Medical Officer of this case has stated in his evidence that on 10.06.2016 he was posted as Sub-Division Medical Officer at KCH, Tezpur and on that day at about 8 AM, he examined one Afajul Islam in connection with Hospital registration no.

467/16. He stated that on examination, he found the following injuries:- (i) 3 cm in length multiple lacerated injuries in forehead; (ii) Left elbow bone fracture on X-ray. He further stated that the age of injury is less than 24 hours. He also stated that the nature of injury is grievous and caused by blunt object. He further stated that the patient was identified by himself and he was not escorted by police. Patient was referred by OPD of emergency doctor to him. He identified the medical examination report of victim as Ext-3 wherein he put his signature as Ext-3(1).

18. PW-7, SI Nurul Islam being the Investigating Officer of this case has stated in his evidence-in-chief that on 10.06.2016, he was posted at Tezpur Salonibari Out Post under Tezpur PS as ASI and on that day I/C of Salonibari OP received an ejahar lodged by one Osman Ali and thereafter made an GDE vide no-323, dated-10.06.2016 and forwarded the same before Tezpur P.S. Accordingly, on received of the same, the O/C of Tezpur PS registered as Tezpur PS Case No-984/2016, U/S-143/326/342/294/506 of IPC. Thereafter, O/C of Tezpur P.S. endorsed him to investigate the case and accordingly he started his investigation by visiting the place of occurrence and prepared sketch map. He identified the sketch map as Ext-4 wherein he put his signature as Ext-4(1). He further stated that he recorded the statement of the informant and other witnesses and thereafter, he send the victim namely Afajul Islam to hospital for medical examination and later on he collected the medical report of the victim. He also stated that he did not find the accused persons inspite of several attempt. He further stated that after completion of the investigation, SI Omar Faruk have submitted charge sheet against the accused persons, namely, Krishna Bhumij, Saniram Bhumij, Patu Bhumij, Mintu Bhumij and Tuta Bhai Murah shown them as absconders u/s-143/326/342/294/506 of IPC. He identified the charge

sheet submitted by SI Omar Faruk as Ext-5 and Ext-5(1) is the signature of SI Omar Faruk which is known to him.

19. In cross-examination, PW-7 has stated that he investigate the case on the basis of GD entry number-323, dated-10.06.2016. He stated that he did not seize any articles from the place of occurrence. He admitted the fact that PW-3 Afajul Islam did not state before him that "4/5 years back, at night, he was coming through their village road and when he arrived in front of house of accused persons the incident took place and accused persons namely Mintu, Saniram, Putul, Krishna and his father wrongfully restrained him and assaulted him by using dao like article."
20. I have minutely perused the evidence on record including the cross-examination of witnesses. In this case, the prosecution side has examined as many as seven numbers of witnesses including informant, independent witnesses, medical officers and the I.O. in this case there was no eye witnesses. The PW-3 is the victim of this case. The PW-1, PW-2 & PW-4 are hearsay witnesses.
21. The PW-3 who was the victim of this case has deposed that four years ago at night accused persons namely Mintu, Soniram, Putul, Krishna and his father wrongfully restrained him and assaulted him by using dao like article on his head, hand and other parts of his body and thereafter, he become senseless. He sustained injury on his head and other parts of body. In this case the PW-1, PW-2 & PW-4 were hearsay witnesses. They heard only the incident but had not seen the incident. From the PW-6 appears that the victim sustained injury on his forehead and left elbow and the injury was grievous and caused by blunt object. On other hand the in the evidence the victim has stated that he was assaulted with 'dao' like article by the accused persons. In the ejahar the informant also stated that all the accused persons assaulted his nephew namely, Afajul Islam with a Khukuri on his head and due to that his nephew

sustained cut injury on his head. But from the Medical Reports (P.Ext-2 & P.Ext-3) it appears that the victim sustained only blunt injury not the cut injury. So, the alleged injury sustained by the victim was not supported by medical reports. Apart from the I.O. of this case failed to seize any alleged article like 'dao' in connection with this case. I have no found sufficient reason to believe the statement of the PW-3.

22. Moreover, from the evidence of the PW-1, PW-2 & PW-4 no sufficient evidences have been found against the accused persons to commit the offences as alleged in the F.I.R. as they were only hearsay witnesses. Further from the evidence of prosecution I have not found sufficient incriminating materials against the accused persons under section: 147/342/294/506 I.P.C.
23. Hence, considering all above discussions it appears that the prosecution has not proved the case against the accused persons beyond reasonable doubt. 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: 147/325/342/294/506 of Indian Penal Code. Hence, the accused persons, namely, Sri Krishna Bhumij, Sri Mintu Mora @ Bhumij, Sri Putu Bhumij @ Putu, Sri Chutu Bhai @ Hriday Mura and Sri Soniram Bhumij @ Anil Bhumij are not found guilty.

**ORDER.**

Accused persons, namely, Sri Krishna Bhumij, Sri Mintu Mora @ Bhumij, Sri Putu Bhumij @ Putu, Sri Chutu Bhai @ Hriday Mura and Sri Soniram Bhumij @ Anil Bhumij are acquitted from the Charges under section-147/325/342/294/506 of Indian Penal Code and set at liberty forthwith.

Bail-bonds of the accused persons are extended for six months in view of section-437A of Cr.P.C.

Judgment is prepared and pronounced in open court. Given under my hand & seal of this court on this 31<sup>th</sup> 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:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Md. Osman Ali	INFORMANT
PW-2	Md. Iddrish Ali	OTHER WITNESS
PW-3	Md. Afajul Islam	VICTIM
PW-4	Md. Abdul Jalil	OTHER WITNESS
PW-5	Dr. Munin Ch. Pujari	MEDICAL WITNESS
PW-6	Dr. Hiranjan Saikia	MEDICAL WITNESS
PW-7	SI Nurul Islam	POLICE WITNESS

**B. Defence Witnesses, if any:**

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

**C. Court Witnesses, if any:**

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

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

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1	Ext-1/PW-1	Ejhar
2	Ext-1(1)	Signature of PW-1
	Ext-2/PW-5	Medical Report
	Ext-2(1)	Signature of PW-5
	Ext-3/PW-6	Medical Report
	Ext-3(1)	Signature of PW-6
	Ext-4/PW-7	Sketch Map
	Ext-4(1)	Signature of PW-7
	Ext-5/PW-7	Charge Sheet
	Ext-5(1)	Signature of SI Omar Faruk

**B. Defence:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

**C. Court Exhibits:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

**D. Material Objects:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
NIL	NIL	NIL

Chief Judicial Magistrate,  
Sonitpur: Tezpur