

DISTRICT: SONITPUR

IN THE COURT OF JUDICIAL MAGISTRATE 1ST

CLASS, TEZPUR, SONITPUR

Present: Smt. Priyanka Saikia, AJS

Judicial Magistrate 1st Class Sonitpur, at Tezpur

P.R.C. NO. 620/2021

(G.R. Case No. 3068/2020)

under Sections 448, 323, 34 of IPC.

STATE OF ASSAM

-VERSUS-

1. SRI BISWAJEET DAS @ BAPPA

SON OF LT SURAJIT DAS

2. SMTI JUMA DAS

WIFE OF SRI BISWAJEET DAS @

BAPPA

RESIDENT OF WARD NO.5,

P.S-DHEKIAJULI,

DIST- SONITPUR, ASSAM

.....ACCUSED PERSONS

Date of evidence : 10.01.2022

Date of argument : 10.01.2022

Date of judgment : 10.01.2022

Advocate appeared for the State: Smt. Bandana Boro, Ld.

APP

Advocate appeared for the accused person: Srikanta

Karmakar

CASE NO: P.R. 620 of 2021

JUDGMENT

1. The informant, Sri Krishna Talukdar had lodged the ejahar in this case on 10.10.2020 alleging that on 08.10.2020 at about 03.00 P.M. the accused persons call him to the house of Sri Moina Kalita and offered him to drink liquor. When he refused to do the same, the accused person tried to take snap of him with liquor. When he tried to resist, the both accused person had assaulted him by hand and lathi and injured him. They have also kept the motor cycle bearing registration No. AS-12-W-3372. Hence, this case.

2. Upon receipt of the ejahar, the police registered Dhekiajuli Police Station case no: 629/2020 under Section 448, 325, 384, 34 of Indian Penal Code, 1860 (hereinafter referred to as IPC). After completion of the investigation the police submitted charge-sheet against the accused persons Sri Biswajit Das @ Bappa and Smti Juma Das under Sections 448, 323, 34 of IPC.

3. The accused persons entered trial and after furnishing the accused persons with the copies of the relevant documents in compliance with Section 207 of CrPC and upon finding sufficient materials against the accused persons, charge under Sections 448, 323, 34 of IPC was framed and was explained to the accused persons to which they pleaded not guilty and claimed to be tried.

4. The prosecution examined the informant, Sri Krishna Talukdar @ Sutradhar as PW-1 and also exhibited the ejahar. The statement of the accused persons under

Section 313 of Cr.P.C was dispensed with due to the lack of incriminating materials against them. Defence declined to adduce evidence. I have heard the arguments for both sides.

5. Upon hearing and on perusal of the case record I have framed the following points for determination-

(I) Whether on 08.10.2020 at about 03.00 P.M. the accused persons in furtherance of common intention unlawfully trespassed into the house of the informant and thereby committed an offence punishable Section 448, 34 of Indian Penal Code?

(II) Whether on same date and time the accused persons in furtherance of common intention committed voluntarily caused hurt to the informant and his friend and thereby committed an offence punishable under Section 323, 34 of Indian Penal Code?

DISCUSSION, REASONS AND DECISION THEREOF:

6. In the course of the evidence adduced by the prosecution, it emerged that the informant, Sri Krishna Talukdar @ Sutradhar, who was examined as PW-1 had stated that the instant case was filed due to misunderstanding. He further stated he does not want to proceed with the case and if the accused persons are acquitted from the case they do not have any objection. PW-1 has proved his F.I.R. as Ext-1 and his signature therein as Ext. 1(i).

7. Since the informant and the victim who launched the prosecution of the accused persons have not incriminated

the accused persons, the case of the prosecution has fallen flat on its face. Hence, the point for determination is decided in the negative.

ORDER

8. Situated thus, the accused persons Sri Biswajit Das @ Bappa and Smti Juma Das acquitted of the offence Sections 448, 323, 34 of IPC and set at liberty forthwith.

9. The bail bond of the accused persons will remain in force for 6 (six) months from today by virtue of Sec. 437(A) Cr.P.C.

Given under my hand and seal of this court on this 10th January, 2022 at Sonitpur, Assam.

Priyanka Saikia, AJS
Judicial Magistrate 1st Class
Sonitpur, Tezpur

APPENDIX

1. Witnesses for Prosecution

PW-1: Sri Krishna Talukdar @ Sutradhar

2. Prosecution Exhibit

Exhibit 1- Ejahar

Priyanka Saikia, AJS
Judicial Magistrate 1st Class
Sonitpur, Tezpur