

PR CASE NO:-684/21
(State of Assam Vs Hari Prasad Borah)

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE

SONITPUR, TEZPUR, ASSAM

Present : Smti P Chakravarty
Addl. Chief Judicial Magistrate
Sonitpur, Tezpur

Date of judgment : -02-09-2022

U/S 323/427 of IPC

Details of FIR/Crime and Police Station

Complainant :	State of Assam Or Sri Amal Nath S/O Sri Purna Kt Nath Vill-Ghatuwa PS-Thelamara Dist- Sonitpur
Represented by :	Sri. P. Baruah, Learned Addl. Public Prosecutor
Accused :	Sri Hari Prasad Borah S/O Lt Kiran Borah Vill- 2 No Bamunpukhori PS-Thelamara Dist- Sonitpur
Represented by :	Mr. F Haque

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Date of offence :	08-02-2021
Date of FIR :	08-02-2021
Date of Charge sheet :	28-02-2021
Date of commencement of evidence :	20-07-22
Date on which judgment is reserved :	
Date of judgment :	02-09-2022
Date of 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 428, Cr.P.C.
1.	Hari Prasad Borah	Nil	17-01-22	U/S 323/427	Acquitted	Nil	Nil

J U D G M E N T

1. The prosecution story emanates from the FIR lodged by one Sri Amal Nath on 8-2-21 stating inter alia that he being a reporter went to the house of accused Sri Hari Prasad Borah to collect some news. At that time, public of that village raised hulla regarding misappropriation of fund of **Govt Scheme** namely **Swayam** by the accused. When the informant was busy in reporting the matter, accused along with his family members had attacked him with a sharp weapon. Accused Hari Prasad Borah also damaged his mobile phone and his vehicle. Accused also assaulted his cameraman. Hence, this case.

2. On receipt of ejahar, Thelamara PS case no. 21/21/21 U/S 324/323/427/34 IPC was registered and SI (P) HIRAK JYOT MAZUMDAR was entrusted for investigation of this case. After completion of investigation the police filed charge-sheet against the only accused Hari Prasad Borah U/S- 323/427 IPC. At the relevant point of time, on receipt of summons the accused appeared before this Court and he was furnished copies as mandated u/s 207 Cr.P.C. Having found a case against the accused U/S- 323/427 IPC, particulars under said section of law were explained to the accused to which he pleaded not guilty and claimed to be tried.

3. The prosecution examined only 3(three) witnesses and on the oral prayer of prosecution and defence sides as well as considering the evidence of the PWs, further prosecution evidence was closed and SD were dispensed with.

The points for determination is :

- i) Whether the accused persons on 8-2-21 had voluntarily caused injury to the informant and his colleagues and thereby committed an offence punishable U/S 323 of the IPC ?

- ii) Whether the accused person on the same day committed mischief by causing wrongful loss or damage to the property of informant and is liable to be punished under Section 427 of IPC?

DISCUSSION OF EVIDENCE

4. **PW1 Sri Amal Nath is the informant** of this case. He stated that the accused is a local of his neighboring village. He further stated that on 08.02.2021 about 7 pm he had along with two of his reporting staff had visited no-2 Bamun Pukhuri village for collecting some news report. There were few people who had gathered outside the house of the accused and they were discussing over some issues with the accused person. At that time they reached on the spot and when they were trying to enquire what was the matter then he heard that there was some agitation and hulla being created over the issue of misappropriation of fund under some Govt scheme regarding which there was some altercation between few of the locals. He added that, as they were present on the spot someone from the crowd had hit over his camera and one of the blow fell on his hand and he got mildly hurt. He deposed that he had lodged the ejahar against the accused person as he too was present amongst the crowd and mistakenly he had thought that he had hit over their vehicle when they tried to come out of that crowd. He further stated that at present he is not willing to proceed with the case against the accused person. He has identified the ejahar as Ext.P1 and Ext.P1(1) is his signature.

5. **Sri Koushik Saikia is examined as PW2** and he deposed that he knows the informant as they worked together for collecting news items. He also deposed that he also knows the accused person who is his co villager. On 08.02.2021 at about 7 pm he along with the informant had gone near the house of the accused person where several people had gathered and there was some agitation over misappropriation of fund under govt scheme and they had reached the spot to collect news. Thereafter during some altercation that had taken place between few of the locals he also got mild injury as few of them had hit him during the said altercation. He further stated that he has no any grievance against the accused.

6. **PW3 Sri Ujjal Nath** deposed that he knows the informant as well as the accused. He stated that he worked for the informant. On 08.02.2021 at about 7 pm he along with the informant and one more colleague had gone near the house of the accused person where several people had gathered and there was some agitation over fund misappropriation under govt. scheme and he was driving the vehicle. Thereafter someone asked him to remove the vehicle towards back side during which someone from the crowd had hit their vehicle with some object. He further stated that he did not sustain any injury during the said incident.

DECISION AND REASONS THEREOF

7. I have heard the prosecution and defence side.
8. Let me now analyze how far prosecution side has been able to prove its case beyond all reasonable doubt against the accused persons.
10. Upon careful scrutiny of the evidence of prosecution witnesses put forwarded by the prosecution side, it appears that all of them had not implicated the accused with the offence charged. **PW1/informant Sri Amal Nath** admitted in his evidence-in-chief that he had lodged the ejarah against the accused as he too was present amongst the crowd and mistakenly, he had thought that he had hit over their vehicle. **PW2/Koushik Saikia** admitted that he got mild injuries as few of the public had gathered at the place of occurrence and had hit him. Similarly, **PW3 Ujjal Nath** admitted in his evidence that amongst the crowd, someone asked him to remove the vehicle towards back side during which someone from the crowd had hit their vehicle with some object. Thus, PW1/informant and PW2 and PW3 have in no manner supported the prosecution case. This being the position, the prosecution case cannot be said to have been proved beyond all reasonable doubt.
11. In view of the above aspects, it is hereby held that prosecution has failed to prove its case beyond all reasonable doubt. As such, this court holds that the accused Sri Hari Prasad Borah is not guilty of the offence U/S – 323/427IPC. Accordingly, the accused is acquitted and he be set at liberty forthwith. The bail bond furnished by the accused person is hereby extended for six months from today (02-09-2022).
12. Seized articles if any, be delivered to his lawful owner after proper verification and following the process of law.
13. Judgement is delivered and pronounced in open court.
13. Given under my hand and seal of this court on this 2nd day of September, 2022.

Smti P Chakravarty
Addl. Chief Judicial Magistrate

Sonitpur, Tezpur

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

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Sri Amal Nath	Informant
PW2	Sri Koushik Saikia	Other
PW3	Sri Ujjal Nath	Other

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.1	Ejahaar

B. Defence:

Sr. No	Exhibit Number	Description
1	Nil	Nil

C. Court Exhibits:

Sr. No	Exhibit Number	Description
1	Nil	Nil

D. Material Objects:

Sr. No	Exhibit Number	Description
1	Nil	Nil