

P.R Case No-808 of 2019
(State of Assam Vs Must. Anowara Begum & Anr)

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

P. R. Case No-808 of 2019

Under section-323/34 of I.P.C

Present:- **Sri N. J. Haque, AJS,**
Chief Judicial Magistrate,
Sonitpur, Tezpur

State of Assam

-Vs-

1. Must. Anowara Begum

W/O:- Md. Akbar Ali

2. Must. Ismitara Begum

W/O:- Late Abdul Matleb

Both are R/O:- Akkabasti Gaon

P/S:- Chariduar

Dist:-Sonitpur, Assam

.....Accused Persons

Advocate appeared:

Mrs. Karabi Das, Asst. P.P..... For the State

Mr. Dipu Bhuyan, Ld. Advocate..... For the accused persons

Evidence recorded on :- 05.01.2022

Date of Statement of defence :- 05.01.2022

Argument heard on :- 05.01.2022

Judgment delivered on :- 05.01.2022

J U D G M E N T

History of Prosecution's Case

1. Prosecution's case appears to be in a narrow campus is that one Must. Jahnara Khatoon lodged an ejarah before the O/C of Chariduar P.S alleging inter alia that on 17.01.2019 at about 04:00 PM, while children were playing in her courtyard, the accused persons went there and strangulated one child. It is also stated that when she restrained the accused persons, the accused persons physically assaulted her with lathi and due to that she sustained severe injury.

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"INVESTIGATION"

2. On receipt of the ejahar, Chariduar P.S Case No-18 of 2019 under section-325/307/34 of I.P.C was registered and investigation into. On completion of the investigation, the I.O. of this case submitted charge sheet u/s-323/34 of I.P.C against the accused persons.

CHARGE & TRIAL

3. In pursuant to the court's process, the accused persons appeared before the court and they were allowed to go on bail. Copies u/s-207 of CrPC was furnished to the above named accused persons. After hearing both side, particulars of offences u/s-323/34 of I.P.C. was read over and explained to the accused persons by my Ld. Predecessor in office, on which they pleaded not guilty and claimed to be tried.

STATEMENT OF DEFENCE

4. The prosecution side to prove the guilty of the accused persons examined the informant-cum-victim in support of this case. Considering the testimony of the informant-cum-victim, prosecution side declined to adduce further evidence before this court. Hence, the evidence of prosecution side is closed. Examination of accused under section-313 of Cr.P.C is dispensed with as from the testimony of the informant-cum-victim, nothing implicating disclosed against the accused.

ARGUMENT

5. I have heard arguments of both sides, gone through the case record in the backdrop of evidences presented before this court by prosecution side.

6. **The points for determination in this case are:**

- (i) Whether 17.01.2019 at about 04:00 PM at a place called Akkabasti Bengoli Gaon, both the accused persons in furtherance of their common intention voluntarily caused simple hurt upon the body of the informant named Must. Jahnara Begum and thereby committed an offence punishable u/s-323/34 of IPC?

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DECISION, DECISION AND THE REASON THEREOF:

7. In this case, prosecution side has got the burden of prove that on 17.01.2019 at about 04:00 PM, while children were playing in her courtyard, the accused persons went there and strangulated one child. It is also stated that when she restrained the accused persons, the accused persons physically assaulted her with lathi and due to that she sustained severe injury. In this case prosecution side to prove the case examined the informant-cum-victim in support of this case. I have carefully travelled through the testimony of the informant-cum-victim in the backdrop of entire prosecution case and it finds:-
8. PW-1, Must. Jahanara Begum being the informant-cum-victim of this case deposed before this court that she knows both the accused persons and they are her relatives. She also deposed that around three years back one day at afternoon, she had a quarrel with the accused persons and due to dashing and pushing she fell down and sustained injury. She also deposed that thereafter, out of misunderstanding she lodged the ejahar against the accused persons. She further deposed that she settled the matter with the accused outside the court and now, she does not want to proceed further against the accused persons. She identified her ejahar as Ext-1 wherein she put her signature as Ext-1(1). The cross-examination of PW-1 was declined by the defence side.
9. I have carefully travelled through the testimony of PW-1 in the back drop of the entire prosecution case and it finds that PW-1 in her evidence contradicted the entire contention of the prosecution story by way of not implicating the accused persons with the alleged incident. PW-1 in her evidence categorically deposed that she lodged the ejahar against the accused out of misunderstanding and now she does not want to proceed further with this case against both the accused. PW-1 in her evidence admitted that she has settled the matter with the accused outside court.
10. To sum up the testimony of the informant-cum-victim, it reveals before this court that the informant-cum-victim appears to be contradictory with the entire contention of the ejahar and her testimony cannot be relied upon.
11. In view of the above evidence on record, I am of the opinion that prosecution side has failed to prove the charges against both the accused persons beyond

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reasonable doubt and as such the accused persons are acquitted from the charges u/s-323/34 of IPC and sets at liberty. Surety is extended for six months in view of section-437A of Cr PC.

12. Judgment is pronounced in the open court, which is given under my hand and seal of this court on 05th day of January, 2022.

(Sri N. J. Haque)
Chief Judicial Magistrate,
Sonitpur: Tezpur

ANNEXURE

1. Witnesses for Prosecution:-

PW-1:- Must. Jahanara Begum, Informant

2. Witnesses for Defence: NIL

3. Court Witnesses: NIL

4. Prosecution Exhibits:

Ext-1 :- FIR

Ext-1(1):- Signature of PW-1

5. Defence Exhibits: NIL

6. Material Exhibits: NIL

Chief Judicial Magistrate
Sonitpur, Tezpur