

**IN THE COURT OF THE ASSISTANT SESSIONS JUDGE,
SONITPUR AT TEZPUR**

PRESENT : Sri M. Kalita,
Assistant Sessions Judge,
Sonitpur, Tezpur.

SESSIONS CASE NO. 264 OF 2011

GR Case No. 1920 / 2011

Under Section 341/326/307 of Indian Penal Code

State of Assam **Complainant**

–Versus –

Sri Ratneswar Nayak,
Son of Late Sukhan Nayak
Village- Porowa Harigaon,
PS – Tezpur.
Dist – Sonitpur, Assam **Accused Person**

ADVOCATES APPEARED:

For the State : Sri Mahendra Bora,
Additional Public Prosecutor

For the accused person : Sri G. Sarkar
Advocate

Date of evidence : 06 - 06 - 2012.

Date of Argument : 20– 06 – 2012

Date of Judgment : 20– 06 – 2012

J U D G M E N T

1. Briefly, the prosecution case was that the informant Smti Anjalia Tanti Kalita, a resident of Porowa Haligaon within the Tezpur Police Station, lodged the ejahar before Mahabhoirab Police Out Post under Tezpur Police Station on 07-09-2011 against the accused Ratneswar Nayak stating inter-alia that on 04-09-2011 at about 5.30 p.m. while the husband of informant Sri Nagen Kalita was busy for marketing at Porowa Centre then the accused suddenly came and attacked Nagen Kalita by giving blow with dagger on the stomach. As soon as the informant got information and she immediately rushed to the place of occurrence but she found that her husband had already admitted in Civil Hospital, Tezpur. But the injured person was referred for advance medical treatment at Guwahati. Accordingly, the husband of the informant admitted at Dispur Hospital in a critical condition. As the informant was busy for medical treatment of her husband, so the ejahar could not be lodged in time. Hence, the informant prayed before the police for taking necessary action by investigating the case.

2. After receiving the aforesaid ejahar, the I/C of Mahabhoirab Police Out Post made a GD Entry on the basis of ejahar and directed S.I Subhas Ch. Baishya for investigating the case. Thereafter, the I/C of Mahabhoirab Police Out Post also sent the ejahar to Tezpur Police Station for registering a case. Accordingly, Officer-in-Charge of Tezpur PS registered a case bearing Tezpur Police Station Case No. 967/11 u/s 341/326/307 of IPC. The Investigating Officer investigated the case. During the period of investigation, the Investigating Officer collected the medical documents from both the Civil Hospital, Tezpur and Dispur Hospital, Guwahati. And after completing the investigation, the Investigating Officer submitted the Charge sheet against the accused u/s 341/326/307 of IPC. Hence, the prosecution case.

3. After appearance of the accused, the learned Judicial Magistrate committed the case to the learned Sessions Judge, Sonitpur, Tezpur. Then the case was made over to this Court accordingly, trial was taken up by this Court. Considering the materials available on case record and relevant documents of case diary, the charge was framed against the accused under Sections 341/326/307 of IPC. Then the contents of charge was read over and explained to the accused to which the accused pleaded not guilty and claimed to be tried.

4. The prosecution has examined only two PWs to bring home the case. Then the accused has been examined u/s 313 CrPC, wherein he has denied the prosecution case totally. No witness has been examined by defence. And after the close of trial, judgment is delivered.

5. **Point for determination of the case:**

Whether the accused voluntarily caused grievous hurt on the person of the victim by wrongfully restraining him at the place of occurrence and at the time of occurrence ?

If so, whether the accused made attempt to commit murder of victim and he did certain act towards the commission of such offence at the time of occurrence?

Discussion, Decision and reasons for Decision:-

6. Before coming to the conclusion, I like to briefly discuss the evidence adduced by PWs first.

7. PW 1 is the informant as well as the wife of the victim. She has deposed that accused was her relative. On 04-09-2011 while she was staying at her residence then the occurrence took place between her husband and the accused. Then she came from her residence and found her husband

admitted at Civil Hospital, Tezpur. She found injury on the stomach of her husband. But she did not know how the injury was caused. As the injury was found grievous so the injured person was referred for advance medical treatment at Guwahati. Thereafter she lodged the ejahar and she has proved the ejahar as Ext.1. Her husband stayed at hospital for 13 days.

In the cross-examination, PW 1 has admitted that the occurrence took place due to misunderstanding. So, the matter was amicably settled. The accused was her relative so she has no any grievances against the accused as the occurrence took place on misunderstanding. She lodged the ejahar only out of indulgence.

8. PW 2 Sri Nagen Kalita has stated that on 04-09-11 at afternoon the quarrel took place between him and the accused. He fell on earth and due to hit received by him he sustained injury on his stomach. Then, he immediately went to the Police Station. Thereafter he was sent to Civil Hospital, Tezpur. Then he was referred to Guwahati for advance medical treatment.

In the cross-examination, PW 2 has admitted that the occurrence took place on misunderstanding. So, the matter was amicably settled. He has no any grievances against the accused as because he sustained injury due to falling on some substance on earth.

9. From the above discussion of evidence of above PWs, it is found that both the PWs have failed to state any implicating materials against the accused person. Though the informant stated in the ejahar that the accused gave blow by dagger on the stomach of victim but the victim has himself admitted that he only sustained injury due to falling on some substance. The quarrel took place between him and accused on misunderstanding. So on appreciation of evidence of PW 1 and

2, it is found that the evidence of PW 1 and PW 2, who are the vital witnesses, is not sufficient enough to establish the charge against the accused for committing the offence u/s 341/326/307 of IPC. Both the PWs have failed to substantiate the fact of ejahar. So, it can be held that the prosecution has failed to prove the ingredients of offence u/s 341/326/307 of IPC with the material of beyond reasonable doubt for which, the accused is entitled to acquittal on benefit of doubt.

O R D E R

10. As the prosecution has failed to prove the case beyond all reasonable doubt against the accused person, so the accused person is acquitted on benefit of doubt and set at liberty forthwith.

11. The bail bond stands discharged immediately from the case.

12. Given under my hand and seal of this Court on this day, the 20th day of June, 2012.

(M. Kalita)
Assistant Sessions Judge,
Sonitpur, Tezpur.

Dictated and corrected by me.

(M. Kalita)
Assistant Sessions
Judge,
Sonitpur, Tezpur.

Dictation taken and
transcribed by me :

(R.Hazarika),
steno.

A P P E N D I X**Prosecution witnesses :**

PW 1 : Smti Anjala Tanti Kalita, informant.

PW 2 : Sri Nagen Kalita.

Defence Witness : Nil

Court Witness : Nil

Prosecution Exhibits: :

Exhibit 1 : Ejahar.

Material Exhibits: : Nil

Defence Exhibit : Nil

Court Exhibit : Nil

Exhibit produced by witness : Nil

(M. Kalita)
Assistant Sessions Judge,
Sonitpur : Tezpur.