

APPENDIX -12

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

Present: Dr. C. Khanikar, AJS
Assistant Sessions Judge, Sonitpur, Tezpur

(19th October, 2022)

(Sessions Case No 53 / 2022)

(FIR NO.2438/2019 DATED 21-12-2019 / ATTEMPT TO MURDER CASE /AND
TEZPUR POLICE STATION)

COMPLAINANT :	MD. ABDUL BASAR
REPRESENTED BY	SMT. NIVA RAHMAN, ADVOCATE ADDITIONAL PUBLIC PROSECUTOR SRI P. SHARMA, ADVOCATE ADDITIONAL PUBLIC PROSECUTOR
ACCUSED	1. MD. RAFIQUE FARUK S/O MD. NUR MOHAMMAD FARUK 2. MD NUR MOHAMMAD FARUK S/O MD. LT. JINNAT ALI 3. MUSSTT RABIA KHATUN W/O MD. NUR MOHAMMAD FARUK 4. MUSSTT. SEHNAJ KHATUN W/O MD. RAFIQUE FARUK ALL RESIDEHTS OF VILL- GUTLONG P.S.- TEZPUR DIST-SONITPUR, ASSAM
REPRESENTED BY	SRI B. BORTHAKUR, ADVOCATE

APPENDIX -13

Date of Offence	21-12-2019
Date of FIR.	21-12-2019
Date of Charge-sheet	31-01-2021
Date of Framing of Charges	19-05-2022
Date of commencement of evidence	08-06-2022
Date on which judgment is reserved	06-10-2022
Date of the Judgment	19-10-2022
Date of the Sentencing Order, if any	19-10-2022

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	Md. Rafique Faruk	27-10-2020	27-10-2020	294/323/ 325/506/ 307/34 IPC	Convicted	RI for three years with a fine of Rs. 500/-, each in default S.I for 10 days	NIL
2	Md. Nur Mahammad Faruk	27-10-2020	27-10-2020	294/323/ 325/506/ 307/34 IPC	Convicted	-do-	NIL
3	Musstt. Rabia Khatun	27-10-2020	27-10-2020	294/323/ 325/506/ 307/34 IPC	Convicted	-do-	NIL
4	Musstt. Sehnaj Khatun	27-10-2020	27-10-2020	294/323/ 325/506/ 307/34 IPC	Convicted	-do-	NIL

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

SESSIONS CASE No. 53 of 2022

G.R. Case No.4396 of 2019

U/S.294/323/325/506/307/34 of IPC

State of AssamProsecutor

- *Versus*-

1) Md. Rafique Faruk

2) Md. Nur Mahammad Faruk

3) Md. Rabia Khatun

4) Musstt. Sehnaj Khatun

.....Accused

Present: Dr. ChetanaKhanikar, AJS

For the prosecution : Smt. N. Rahman, Addl. P. P.

Sri P. Sharma, Addl. P. P.

For the defence : Sri B. Borthakur, Advocate

Evidence recorded on: 08-06-2022, 09-06-2022, 21-06-2022,

12-08-2022 & 09-09-2022

Argument heard on: 30-09-2022 and 06-10-2022

Judgment delivered on : 19-10-2022

J U D G M E N T

1. The prosecution case in brief as stated in the FIR is that the accused were throwing garbage to the land of the informant from 2 weeks till filing of the FIR. As such, on 21-12-2019 at about 7 a.m, the informant has told the accused not to do so. Then the accused had abused the informant and his family members with obscene words and

assaulted the brother of the informant with a stick on his head, chest and caused severe injury. When the informant tried to restrain the accused, the accused had grabbed the informant and assaulted him with a stick and caused severe injury on his head. The accused had also threatened the informant and his family members with dire consequences and to cause death.

2. On the basis of aforesaid FIR, police registered a case as Tezpur PS Case No. 2438/2019. Police investigated the case and on completion of investigation submitted charge-sheet against the accused persons Md. Rafique Faruk, Md. Nur Mahammad Faruk, Musstt. Rabia Khatun and Musstt. Sehnaj Khatun U/S 294/325/506/307/34 of IPC.

3. On appearance of the accused persons Md. Rafique Faruk, Md. Nur Mahammad Faruk, Musstt. Rabia Khatun and Sehnaj Khatun, copies of relevant documents were furnished to them as required U/S 207 of Cr. P. C. and the case was committed to the Court of Hon'ble Sessions Judge, Sonitpur as the case was exclusively triable by the Hon'ble court of Sessions. Thereafter, the case has been transferred to this court. Considering the relevant documents and hearing both the parties and having found sufficient material to presume that the accused had committed offences U/S 294/323/325/506/307/34 of IPC charge under those sections was framed against them.

The accused pleaded not guilty and claimed to be tried when the charge was read over and explained to them.

4. During trial the prosecution side has examined eight witnesses and also adduced five documentary evidences.

5. At the close of the prosecution evidence, the accused were examined U/S. 313 of the Cr.P.C. in reference to the incriminating circumstances appearing against them in the prosecution evidences. Defence side has adduced no evidence and plea of the accused are of total denial.

6. After perusing the records, considering the materials produced, hearing the arguments of the learned counsels for both the sides and the accused the following points are taken as POINTS FOR DETERMINATION:

(i) Whether on 21-12-2019 at about 7 A.M the accused had, in furtherance of their common intention, abused the informant and his family members with obscene words, at public place?

(ii) Whether on the same day, time and place the accused had, in furtherance of their common intention, voluntarily caused hurt to the informant Abul Basar?

(iii) Whether on the same day, time and place the accused had, in furtherance of their common intention, voluntarily caused grievous hurt to Baharul Azom?

(iv) Whether on the same day, time and place the accused had, in furtherance of their common intention,

threatened the informant and his family members with dire consequences?

(v) Whether on the same day, time and place the accused had, in furtherance of their common intention, did an act of causing grievous hurt to Baharul Azom with an intention and knowledge to kill him and under such circumstances, that if by that act they had caused the death of Baharul Azom, the accused would have been guilty of murder?

DISCUSSION, DECISION AND REASONS THEREOF:

Point No. (i): *Whether on 21-12-2019 at about 7 A.M the accused had, in furtherance of their common intention, abused the informant and his family members with obscene words, at public place?*

7. In the FIR, it is stated that the accused had abused the informant and his family members with obscene words. The I/O as PW 8 has deposed that the P.O. is a vacant place, situated in front of the house of the accused. But from the evidence of the witnesses has stated anything about any abuse by the accused persons. None has stated that the accused had uttered any obscene word. Thus, it is seen that the prosecution side has not adduced any evidence to prove that on 21-12-2019 at about 7 A.M the accused had, in furtherance of their common intention, abused the informant and his family members with obscene words, at public place.

Hence, **Point No. (i) is decided negative.**

Point No. (iii): *Whether on the same day, time and place the accused had, in furtherance of their common intention, voluntarily caused grievous hurt to Baharul Azom?*

8. PW2 Rafique Uddin Ahmed deposed that when he arrived at the PO, he saw Baharul in senseless condition. Thereafter, they took Baharul to Civil Hospital and thereafter to TMCH from where he was referred to Guwahati. PW3 is the informant. He deposed that, the accused had assaulted his brother Baharul for which, Baharul was taken to Civil Hospital. From the Civil Hospital, Baharul was first referred to TMCH and then to Guwahati. PW4 is the injured Baharul Ajam. He deposed that accused Nur Mahammad caught him and Rafique Faruk assaulted him on his head with a trunk of a tree. Then he became senseless. Later on, he came to know that he was taken to Guwahati for treatment. He regained his sense at Guwahati Polyclinic. PW.5, who is the mother of the informant, has deposed that she has witnessed the incident. She saw that the accused Rafique Faruk hit her son Baharul Ajam on his head with a stick. Then, Baharul became senseless. The accused had also dragged unconscious Baharul to the main road. Then, she and Abul Basar took Baharul to Civil Hospital in an ambulance. From the Civil Hospital, Baharul was referred to TMCH and thereafter referred to Dispur Poly Clinic, Guwahati. PW 7 Dr. Nityananda Phukan is the M.O. of Dispur Polyclinic, who examined Baharul Azam. He deposed that on examination he found right temporoparietal Extra Dural Haemorrhage

with fracture of temporoparietal bone and the nature of injury was grievous.

9. From the evidences, it is seen that PW 3, 4 and 5 have stated about their personal ocular knowledge about the assault of PW 4 Baharul Azom by the accused persons. PW 2 has stated that he arrived at the PO just after the incident and saw Baharul in injured condition. Thus, PW 2 led a good circumstantial evidence. The injury of Baharul Azom is proved by the M/O as PW 7. The medical report has also supported the prosecution case. The report states about grievous injury of Baharul Azom.

10. During cross-examination PW 2 deposed that Abul Basar, who is the informant of this case is his nephew. He arrived at the P.O just after the incident and his house is situated at a distance of about 1 K.M from the P.O. But this cross-examination could not rebut the evidence of PW 2 regarding that he saw Baharul Azom in injured condition. Arriving a relative of the injured at the PO just after the incident, whose house is situated at a distance of 1 km from the PO, is in no way an unusual thing.

11. PW 3 was cross-examined by the defence to the facts that he has not written the FIR himself, he does not know the name of the scribe and he has not put his signatures in the corrections made in the FIR.No evidence is found to hold that the informant/ PW 3, is from any legal background. For a layman it is not always possible to know the all procedural intricacies. Thus, not knowing the name

of the scribe or not putting his signatures in the corrections done in the FIR is not fatal to the case, if otherwise the evidence about the incident against the accused are sufficient. PW 3 further deposed that the land for which the quarrel took place belongs to both the families. However, I found no relevance in this statement as this is not a case of trespass. PW 3 was suggested that the accused had not assaulted Baharul, he was not assaulted by the accused and the medical reports were manipulated documents. But PW.3 denied those suggestions.

12. PW 4, who is the injured Baharul Azom, during cross-examination has deposed that he did not state before police that he was taken to Guwahati for treatment and he regained his sense at Guwahati Polyclinic. He was also suggested that there was only an altercation, he sustained injury due to dashing and pushing, the medical reports are manipulated documents and this is a false case. But he denied those suggestions. Apart from that, these are mere suggestions only. The defense side has not led any evidence to prove such pleas.

13. PW 4 was also suggested that he did not state before police that Nur Mahammad caught him and Rafique Faruk assaulted him, but he denied that suggestions too. While going through the statement of Baharul Azom u/S. 161 of the Cr.P.C., it is seen that he stated before the I/O that Nur Mahammad, Rafique Faruk, Sahnaj and Rabia Begum had assaulted him together, with a stick on his

head and he became senseless. There may be differences in the statement as to which accused actually done what. It is humanly not possible for a person to capture like a camera as to who caught him, who assaulted him where, when a group of people attack that person. Under such circumstance, instead of scrutinizing who is doing what, every human being will try to save his life first.

14. During cross-examination, PW 5 deposed that police recorded her statement after 10/12 days of the incident, when they returned from hospital. But I do not think that doing any mistake in recollecting the date of recording her statement by the I/O will make the entire prosecution case a false one. If the date of recording the statement of injured Baharul is found in the Case Diary as before regaining his sense, that may be a different issue. In such situation, the circumstance will definitely point towards a different conclusion. But from the Case Diary, it is seen that the I/O has recorded the statement of Baharul on 4-1-2020, which is 14 days after the incident. Thus, here the circumstance exactly speaks the prosecution case. She was also suggested that the accused had not assaulted Baharul and not dragged unconscious Baharul, she deposed falsely as the informant is her son. But she denied those suggestions.

15. During cross-examination PW 7, the M/O, has deposed that he has not mentioned the size of injury in the medical report and the injury sustained may be caused by

falling on hard substance. Falling on heard substance is a probability only. But the circumstance as well as the other witnesses has not supported the fact of injury by falling on hard substance. All other evidences states only about the fact of injury caused by the assault of Baharul by the accused persons.

16. Hostile witness PW1 Md. Abdul Latif has deposed that he saw that somebody went in an ambulance. He heard that there was a quarrel between the family members of the informant and the accused persons. As he was declared hostile, the prosecution side was allowed to cross-examine PW1 and the prosecution side has suggested him that he stated before police that accused Rafique and Nur Mahammad had assaulted Baharul Ajam with a trunk of a tree. Thereafter, accused Sahnaj and Rabia Begum came to the P.O. and helped in assaulting Baharul. PW.1 has denied the said suggestions.

17. During cross-examination by the defence PW.1 has stated that he forgot, if he stated before police that accused Rafique and Nur Mahammad had assaulted Baharul Ajam with a trunk of a tree with intent to kill him. Thereafter, accused Shenaj and Rabia Begum came to the P.O. and helped in assaulting Baharul. But, he has not stated that he has not stated so before police. On the other hand, the I/O as PW.8 has affirmed that PW.1 has stated before him that accused Rafique and Nur Mahammad had assaulted Baharul Ajam with a trunk of a

tree with intent to kill him. Thereafter, accused Shenaj and Rabia Begum came to the P.O and helped in assaulting Baharul. Thus, it is seen that PW 1, during cross-examination by the defence has not denied his statement u/s. 161 of the Cr.P.C., given before the I/O, which was affirmed by the I/O as PW 8.

18. PW.8 is the I/O. During examination in chief he has deposed that he went to the PO, drew the sketch map, recorded the statements of the informant and witnesses, collected medical reports, arrested the accused persons and released them on bail. After completion of investigation, he has submitted charge-sheet.

19. During cross-examination he deposed that except the house of Ibrahim Ali, Abdul Latif, informant and the accused, there is no house near the P.O. But he has not recorded that the statements of Ibrahim Ali and no reason is assigned for not examined him. This may a lacunae on the part of the I/O. But the prosecution side with the help of the other witnesses has proved its story regarding grievous hurt of Baharul Azom by the accused persons. The I/O has stated that he has not seized anything in connection to this case. In all cases of hurt, the circumstance do not demand the seizure of weapon, unlike the cases of mischief. Apart from that from the medical report also, the charge of dangerous weapon is not proved. The I/O has further stated that he has not sent the injured persons for treatment. He has only collected the

injury reports. Other prosecution witnesses has also stated the same fact and the prosecution side nowhere demanded otherwise. Apart from that, nowhere an injured person is debarred from taking treatment in a hospital, if he is not sent through police, in whatsoever manner he sustained the injury. The I.O has suggested that he has done the investigation perfunctorily and filed false charge-sheet against the accused. But the I/O has denied that suggestion.

20. These are the evidences available in the C.R. From these evidences, it is seen that all the witnesses have pointed that the accused persons had caused hurt to Baharul Azom. Defence side tried to bring some contradictions, but not succeed in damaging the prosecution evidence that the accused had caused grievous hurt to Baharul Azom. No alternative circumstance appeared from the evidences as to cause of the grievous hurt of Baharul Azom, except that the accused had caused grievous hurt to him. Thus, **I am of the opinion that the accused had caused grievous hurt to Baharul Azom.**

21. Now, it is to be considered under what circumstance, the accused had caused grievous hurt to Baharul Azom. It is seen from the evidences that there might be an altercation between the accused persons and Baharul Azom regarding throwing of garbage. But that does not justify the assault leading to grievous hurt. It appears from the evidences that, it is the accused persons

who started altercation, when Baharul told them not to through the garbage. Baharul went there alone. If he had any intention of quarrelling, he would not have gone there alone without any weapon to fight with the four accused persons. Thus, I have not seen any reason to hold that there was any provocation on the part of the informant, his family members or any other person. In absence of any evidence regarding any provocation, any reasonable ground or any factor leading the accused to assault Baharul, I hold that the accused had **voluntarily** caused grievous hurt to Baharul Azom.

22. Intention is a fact that can be gathered from the act of the person. In this case, it is seen that all the four accused persons had co-operation in doing the act of causing hurt to Baharul Azom. All the four accused were present at the PO, some of them had grabbed Baharul Azom and some had assaulted him. This shows nothing but common intention of the accused persons. The defence side has stated that this is a false case against them. But except taking the plea, no proof could be adduced. The prosecution evidence also remained un-rebutted. In view of the above observation, I hold that **the accused persons had, in furtherance of their common intention, voluntarily caused grievous hurt to Baharul Azom.**

Hence, **Point No. (iii) is decided affirmative.**

Point No. (ii): *Whether on the same day, time and place the accused had, in furtherance of their common intention, voluntarily caused hurt to the informant Abul Basar?*

23. P.W.2 Rafique Uddin Ahmed deposed that when he arrived at the PO, he saw that Abul Basar sustained injury on his head. Thereafter, they took Abul to Civil Hospital and thereafter to TMCH. P.W.3 is the informant. He deposed that, the accused had assaulted his brother Baharul and when P.W.3 tried to rescue Baharul, the accused had also assaulted P.W.3. Thereafter, P.W.3 and Baharul went to Civil Hospital in an ambulance. PW 4 and PW 5 have only deposed about assault upon and hurt of PW 4 Baharul Azom. P.W.6 is MO Dr. Hiranjan Saikia, who examined Abdul Basar at KCH, Tezpur. He deposed that on examination he found skin abrasion following history of fall, caused by blunt object. Nature of injury is simple. During cross-examination he deposed that he has not mentioned in his report in which part of body the skin abrasion was present or the size of abrasion.

24. PW.1 Md. Abdul Latif is a hostile witness. He deposed that he saw that somebody went in an ambulance. He heard that there was a quarrel between the family members of the informant and the accused persons. As he was declared hostile, the prosecution side was allowed to cross-examine PW.1 and the prosecution side has suggested him that he stated before police that when

Abdul Basar came to rescue Baharul, the accused had also assaulted Abdul Basar and the accused thereafter fled away. PW.1 has denied the said suggestions. However, during cross-examination by the defence, PW.1 has stated that he forgot, if he stated before police that when Abdul Basar came to rescue Baharul, the accused had also assaulted Abdul Basar and the accused thereafter fled away. But, he has not stated that he has not stated so before police. On the other hand, the I/O as PW.8 has affirmed that PW.1 has stated before him that when Abdul Basar came to rescue Baharul, the accused had also assaulted Abdul Basar and the accused thereafter fled away.

25. These are the evidences adduced by the prosecution side explaining the incident regarding hurt on Abul Basar. From these evidences, it is seen that PW 2 has only seen the injury, but has not seen how it was caused. M/O has stated the history of injury as 'fall'. PW 3 is the informant himself. PW 5, who is the mother of the informant, who claims that she has seen the incident, has not stated anything regarding any assault upon Abul Basar. PW 1 being the hostile witness, cannot be relied upon, in view of the contradictory circumstance appeared as above. Apart from this he has not admitted anything against the accused.

26. PW.8 is the I/O. During examination in chief he has deposed that he went to the PO, drew the sketch map, recorded the statements of the informant and witnesses, collected medical reports, arrested the accused persons and released them on bail. After completion of investigation, he has submitted charge-sheet. During cross-examination the I/O deposed that except the house of Ibrahim Ali, Abdul Latif, informant and the accused, there is no house near the P.O. But he has not recorded that the statements of Ibrahim Ali and no reason is assigned for not examining him. He has not seized anything in connection to this case. He has not sent the injured persons for treatment. He has only collected the injury reports. He has not enquired about the name of the scribe of the FIR. Thus, though the I/O has stated that he found material and accordingly submitted charge-sheet for assaulting Abul Basar, his investigation is not seems to be free from lacunae and hence in absence of sufficient corroboration from other evidences, his charge-sheet regarding the charge of causing hurt to Abul Basar by the accused persons cannot be accepted. Hence, I hold that the prosecution side has failed to prove beyond reasonable doubt that the accused had, in furtherance of their common intention, voluntarily caused hurt to the informant Abul Basar.

Hence, **Point No. (ii) is decided negative.**

Point No. (iv): *Whether on the same day, time and place the accused had, in furtherance of their common intention, threatened the informant and his family members with dire consequences?*

27. In the FIR it is stated that the accused had threatened the informant and his family members with dire consequences and to cause death. But from the evidence of the witnesses has stated anything about any threatening by the accused persons. None has stated that the accused had put the informant or his family members under any kind of threatening. Thus, it is seen that the prosecution side has not adduced any evidence to prove that the accused had, in furtherance of their common intention, threatened the informant and his family members with dire consequences.

Hence, **Point No. (iv) is decided negative.**

Point No. (v): *Whether on the same day, time and place the accused had, in furtherance of their common intention, did an act of causing grievous hurt to Baharul Azom with an intention and knowledge to kill him and under such circumstances, that if by that act they had caused the death of Baharul Azom, the accused would have been guilty of murder?*

28. In the FIR it is stated that the accused had threatened the informant and his family members with dire consequences and to cause death. But nothing stated that

the accused had assaulted Baharul Azom with intent to kill him. PW 1, who is a hostile witness has deposed that he forgot that if he stated before the I/O that the accused Rafique and Nur Mahammad had assaulted Baharul Ajam with a trunk of a tree with intent to kill him. The I/O has affirmed that PW 1 has stated so before him. PW 5 has stated that the accused had dragged the unconscious Baharul to the main road with intent to kill him. But the I/O as PW 8 has stated that Musstt. Nasaim Ara Begum did not tell him that the accused dragged unconscious Baharul to the main road with intent to kill him. Other witnesses have not stated anything regarding the intention of the accused persons to kill Baharul Azom. Apart from the aforesaid statements of PW 1 and PW 5 nothing is found regarding any intention of the accused persons to cause death of Baharul Azom.

29. In this matter, Ld. Defence counsel has cited the decision of Hon'ble Gauhati High Court passed in ***Narayan Sarkar &Ors. vs. State of Tripura 2010(7) R.C.R (Criminal)161: 2010 CriLJ 986:2010(1) GauLJ 688:2009(2) GLD 787***, wherein it is held that the prosecution side has to establish the necessary ingredients of section 307 IPC to hold an accused guilty under the said section. Seen.

30. Ld. Defence counsel has also cited the decision of Hon'ble Gauhati High Court passed in ***Md. Hazarat Ali @ Md. Harzat Ali vs. State of Assam 2017(170) AIC***

615: 2017 CriLJ 914: 2017(2) Crimes 309:2017(2)

NEJ 194, wherein it is held that,

“...in order to amount to an attempt to murder, the attempt must be of such that if not prevented or intercepted it would be sufficient to cause death of the victim. In order that a person may be guilty of an attempt to murder, the following two ingredients must be present (a) an intention or knowledge for committing murder (b) the doing of an act towards it. For the purpose of Section 307 IPC what is material is the intention or knowledge, nor the consequences of the actual act done for the purpose of carrying out the intention.”

In the case in hand, nothing is found what has prevented the accused to kill Baharul Azom. If they had any intention to cause death of Baharul Azom, they could have kill him. According to the prosecution story, the informant Abul Basar went to rescue Baharul. Then the accused had assaulted and thereby caused hurt to Abul Basar also. Thus, it is seen that Abul Basar did not have the strength to prevent the accused persons to cause death of Baharul Azom. Apart from that the accused were four in number, whereas Abul Basar went there alone. Thus, it is not found that the accused were prevented by any factor from causing death of Baharul Azom. Under such circumstance, it does not appear to me that the accused had any intention to cause death of Baharul Azom.

31. Ld. Defence counsel has cited the decision of Hon'ble Gauhati High Court passed in ***Moirangthem Chaoba Singh and Anr. vs. State of Manipur 1982 CriLJ 1806***. The law led down in the said judgment is a bit difference from the circumstances of the case in hand

in the said judgment it is stated that accused charged under section 307 Indian Penal Code can be convicted under Section 326.

32. In view of the evidences available as well as the law laid down by the Hon'ble High Court, it appears that the prosecution side has failed to prove that the accused had, in furtherance of their common intention, did an act of causing grievous hurt to Baharul Azom with an intention and knowledge to kill him and under such circumstances, that if by that act they had caused the death of Baharul Azom, the accused would have been guilty of murder.

Hence, **Point No. (v) is decided negative.**

33. From the above discussions I come to the conclusion that the prosecution has established beyond reasonable doubt the fact of abusing the informant and his family members with obscene words, at public place or the fact of voluntarily causing hurt to the informant Abul Basar by the accused persons. It is also not proved that the accused had threatened the informant and his family members with dire consequences or that the accused had did an act of causing grievous hurt to Baharul Azom with an intention and knowledge to kill him and under such circumstances, that if by that act they had caused the death of Baharul Azom, the accused would have been guilty of murder. However, the prosecution side has

established beyond reasonable doubt that the accused had, in furtherance of their common intention, voluntarily caused grievous hurt to Baharul Azom. As such **I hold the accused Nur Mahammad, Rafique Faruk, Sahnaj and Rabia Begum guilty U/S 325 of IPC read with S. 34 of IPC.**

34. In the interest of justice and considering the nature of the offence, I decided **not to release the accused persons on probation of good conduct** as it will encourage occurrence of this type of offence in the society and faith of the people on justice delivery system will be decreased by such release. Also, there exists every possibility that the accused will commit offence of the same type without any hesitation if they are so released without allowing them to suffer the consequences of their act.

SENTENCE HEARING:

35. The accused were heard on the question of sentence. Considering his statements, facts and circumstances of the case, nothing appeared to me to deal with the matter of the sentence of the accused persons in a lenient way. Mere presence of kids or ailing father at home cannot be a sufficient ground to evade the process of law. They have not stated about any circumstance, which can lead the court to impose a lesser punishment. Hence, the accused Nur Mahammad, Rafique Faruk,

Sahnaj and Rabia Begum are sentenced to **rigorous imprisonment for three years with a fine of Rs. 500/-, each, in default S.I for 10 days.**

36. As per provision of **section 428 of Cr.P.C.** the period of detention already undergone by the accused persons during investigation, inquiry and trial of the case be **set off** against the sentence of imprisonment.

37. The **fine**, after realization, be **given to the injured** Md. Baharul Azom.

38. Let the **free certified copy of the judgment be furnished to the accused Nur Mahammad, Rafique Faruk, Sahnaj and Rabia Begum.**

Given under my hand and the seal of this Court on this 19th day of October, 2022.

(C. Khanikar)
Asstt. Sessions Judge,
Sonitpur, Tezpur

APPENDIX -14
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)
PW: 1	Md. Abdul Latif	Other witness
PW: 2	Md. Rafiq Uddin Ahmed	Other witness
PW:3	Md. Abul Basar	informant
PW:4	Md. Baharul Ajam	Other witness
PW:5	Musstt. Nasaim Ara Begum	Other witness
PW:6	Dr. Hiranjan Saikia	M.O
PW:7	Dr. Nityananda Phukan	M.O
PW:8	Sri Mahendra Deka	I.O

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.P.1/PW.3	FIR
2.	Ext.P.2/PW.6	Medical report
3.	Ext.P.3/PW.7	Injury Report
4.	Ext.P.4/PW.8	Sketch Map
5.	Ext.P.5/PW.8	Charge-Sheet

B. Defence:

Sr. No	Exhibit Number	Description
NIL	NIL	NIL

C. Court Exhibits:

Sr. No	Exhibit Number	Description
NIL	NIL	NIL

D. Material Objects:

Sr. No	Exhibit Number	Description
NIL	NIL	NIL

(**C. Khanikar**)
Asstt. Sessions Judge,
Sonitpur, Tezpur