

Gr 1839/16
State
Vs
Bhabajit Deka & Others

IN THE COURT OF JUDICIAL MAGISTRATE 1st CLASS, NALBARI

Case No. GR 1839/2016 u/s 143/147/148/149/447/325 IPC

STATE

-Vs-

BHABAJIT DEKA & OTHERS..... Accused

Present: RUBINA YASMIN, A. J. S.

Advocates appeared:

Mrs Manika Chakraborty.....for the State.

Mr. J. Alifor the accused.

Date of prosecution evidence – 06.09.18

Date of argument – 06.09.18

Date of judgment – 06.09.18

Judgment

1. Sri Partha Pratim Pathak initiated the instant case by filing written 'ejahar' before the O/C, Belsore P.S. on 27.11.16. The prosecution case in brief is that, on 27.11.16, at about 1 p.m. that the accused persons were plowing their land through tractor and while doing so the informant's boundary was polluted and when the informant obstructed the accused the latter entered into the informant's premises and attacked the informant with sharp weapons and injured him.
2. On receipt of the 'ejahar', police has registered the case as Belsore P.S. case No. 245/16 u/s 143/147/148/149/447/325 IPC and investigated the matter. On completion of investigation, police filed charge sheet against the accused persons Bhabajit Deka, Mukul Deka, Biraj Deka, Taru Deka, Hira Deka u/s

143/147/148/149/447/325 IPC.

3. During trial, accused person entered their appearance on receipt of summons from the court and were allowed to go on bail. Relevant copies of the case were furnished to them u/s 207 Cr.P.C. Upon perusal of materials on record and after hearing both sides, sufficient materials were found against the accused persons u/s 143/147/148/149/447/325 IPC and accordingly charges were framed. The contents of the offences were read over and explained to the accused to which they pleaded not guilty and claimed to be tried.
4. Prosecution in support of the case examined five witnesses. Defence side declined to adduce any witness in support of their claim. The examination of the accused person u/s 313 of Cr.P.C. was dispensed with as no incriminating materials were found against them.
5. I have heard argument of both sides.

Points for Determination

6. Upon hearing and perusal of the record, I have framed the following points for determination:
 - a. Whether the accused persons are the member of the unlawful assembly and thereby committed an offence punishable u/s 143 IPC?
 - b. Whether the accused persons are guilty of rioting informant and thereby committed an offence punishable u/s 147 IPC?
 - c. Whether the accused persons on 27.11.16 at about 1 p.m. being a member of unlawful assembly were armed with deadly weapon informant and thereby committed an offence punishable u/s 148 IPC?
 - d. Whether the accused persons being member of unlawful assembly are guilty of offence committed in prosecution of common object and thereby committed an offence punishable u/s 149 IPC?
 - e. Whether the accused person on same date time and place criminally trespassed into the house of the informant and thereby committed an offence punishable u/s 447 IPC?
 - f. Whether the accused person on same date, time and place have voluntarily caused grievous hurt to the informant and his family and thereby committed

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an offence punishable u/s 325 IPC?

Evidence on Record

7. I have carefully gone through the entire evidence on record and materials placed before me.
8. PW 1 Partha Pratim Pathak who is the informant as well as the victim deposed in his evidence that on the date of occurrence the accused person was plowing his land and due to which his premises got polluted and this led to an altercation between him and the accused person and that they have now settled the matter.
9. Pw 2, Pw 3, Pw 4 and Pw 5 have deposed to the tune of Pw 1.
10. Now on going through the entire evidence on record it appears that vital witnesses examined by prosecution side, the informant as well as the alleged victim and other Pw have not supported the prosecution case. In result, there is no incriminating materials found against the accused person.
11. I, therefore, find that the prosecution has failed to establish the guilt of the accused person. Accordingly, accused persons Bhabajit Deka, Mukul Deka, Biraj Deka, Taru Deka, Hira Deka are held not guilty of the offence punishable u/s 143/147/148/149/447/325 IPC and accordingly, they are acquitted and set at liberty forthwith.
12. The bail bond furnished on behalf of the accused person shall remain in force for a further period of six months.
13. The seized article if any be disposed in accordance with law.

Given under my hand and seal of this court on this 6th day of September, 2018.

Rubina Yasmin
J.M.F.C. Nalbari

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APPENDIX

Prosecution witness:

PW 1 – Partha Pratim Pathak

PW 2 – Ratul Pathak

PW 3 – Dambarudhar Pathak

PW 4 – Bina Pathak

PW 5 – Anita Pathak

Defence witness:

Nil

Exhibits:

Ext. 1- ejahar

Ext. 1(1) - Signature of the informant

Rubina Yasmin

J.M.F.C. Nalbari