

P.R.C. no. 1815/2019

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, NALBARI

P.R.C. no. 1815/2019

u/s 341/324/34 I.P.C

State of Assam

-Vs-

(i)Md. Habibar Rahman @Habib Ali,

(ii)Md. Baharul Islam @Hantaz Ali.....Accused(s)

PRESENT: Sri. K.C. Boro, A.J.S.

ADVOCATES APPEARED:

For the state : Mr. D. Talukdar, Ld. A.P.P,

For the accused : Smti. Deepali Baruah, Ld. Advocate,

Dates of evidence : 19/02/2020.

Date of argument : 19/02/2020.

Date of judgment : 19/02/2020.

J U D G M E N T

PROSECUTION CASE:

1. The prosecution case in brief as unfolded from the 'ejahar' dated 01/10/2019 filed by the informant Miss. Matu Begum is that on 28/09/2019 at about 6 pm while her husband Sarifuddin Ahmed was going to Nalbari from his home for shopping the accused persons namely Habib Ali, Hantaz Ali and Gulchan Begum restrained her husband in front of their house and assaulted him and accused Habib Ali assaulted her husband with a 'dao' causing injuries. Her husband

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was admitted in SMK Civil Hospital, Nalbari. As she was anticipating a compromise there was delay in filing the ejahar.

2. The said 'ejahar' was received and registered as Nalbari P.S case no. 702/2019 u/s 341/324/34 I.P.C. After completion of investigation charge-sheet no. 416 dated 25/10/2019 was submitted against accused Md. Habibar Rahman @Habib Ali and Md. Baharul Islam @Hantaz Ali u/s 341/324/34 I.P.C. Copy was furnished to the accused persons. Charge u/s 341/324/34 I.P.C was framed, read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

3. POINTS FOR DETERMINATION:

(i) Whether the accused persons on 28/09/19 at about 6 pm at village Katla Barkuchi under Nalbari P.S, in furtherance of common intention voluntarily obstructed Sarifuddin Ahmed the husband of informant so as to prevent him from proceeding in a direction in which he had right to proceed and thereby committed an offence punishable u/s 341/34 IPC ?

(ii) Whether the accused persons on 28/09/19 at about 6 pm at village Katla Barkuchi under Nalbari P.S, in furtherance of common intention voluntarily caused wrongful hurt to Sarifuddin Ahmed the husband of informant with a 'dao' which is a sharp weapon for cutting which used as a weapon of offence is likely to cause death and thereby committed an offence punishable u/s 324/34 IPC ?

4. DECISION AND REASONS THEREOF:

The prosecution examined two (2) witnesses. Finding no incriminating materials the statement in defence of the accused persons u/s 313 Cr.P.C. was dispensed with. The defence declined to adduce any evidence. I have heard the arguments advanced by learned counsels of both sides and also perused the evidence available on record, my findings with reasons are as follows -

5. PW 1 Matu Begum who is the informant deposed that the incident took place on 28/09/19 at about 6 pm. A quarrel was going on

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between them and the accused persons with regard to land dispute. While her husband was going to market and reached in front of the house of the accused a verbal altercation took place between her husband and the accused persons. After the altercation her husband came home running and on his way fell on the ground and sustained injuries. Thereafter, she filed the ejahar. PW 1 during cross-examination deposed that she filed the ejahar out of misunderstanding. The accused persons belongs from her family and they have amicably settled the matter between themselves. She does not have any objection if the accused persons are acquitted.

6. PW 2 Sarifuddin Ahmed deposed that the informant is his wife. He know the accused persons. The incident took place on 28/09/19 at about 6 pm. On that day while he was going to market a verbal altercation took place between him and the accused persons in front of the house of the accused. Thereafter, while he came home running he fell down and sustained minor injuries. On seeing him his wife suspected that he was assaulted by the accused persons and as such she filed the ejahar. PW 2 during cross-examination deposed that the accused persons belongs from his family. He does not have any objection if the accused persons are acquitted.

7. On appreciation of the testimony of witnesses and the materials available on record, I find that the prosecution has failed to establish the essential ingredients so required to constitute the charged offence beyond reasonable doubt by leading clear, cogent & convincing evidence. The accused persons namely Md. Habibar Rahman @Habib Ali and Md. Baharul Islam @Hantaz Ali are found not guilty u/s 341/324/34 I.P.C and hence, acquitted from the said charge and set at liberty forthwith. Bail bonds shall remain in force for a further period of six months.

Given under my hand and seal of this court on this 19th day of February, 2020.

Chief Judicial Magistrate
Nalbari

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APPENDIX

Prosecution witness:

PW 1- Miss Matu Begum (Informant),

PW 2- Md. Sarifuddin Ahmed,

Prosecution Exhibits:

Exhibit 1- Ejahar,

Exhibit 1(1) - Signature of the informant,

Defence witnesses :

Nil

Defence Exhibits :

Nil

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ORDER

Accused Baharul Islam @Hantaz Ali and Habibur Rahman @Habib Ali are present.

Two PW's namely Musstt. Matu Begum and Md. Sarifuddin Ahmed are present who are examined, cross-examined and discharged.

On the submission of Ld. A.P.P the evidence of prosecution side is closed. The statement u/s 313 Cr.P.C of the accused persons are dispensed with. The defence declined to adduce evidence.

Heard the argument of both sides.

Judgment is pronounced and delivered in open court.

On appreciation of the testimony of witnesses and the materials available on record, I find that the prosecution has failed to establish the essential ingredients so required to constitute the charged offence beyond reasonable doubt by leading clear, cogent & convincing evidence. The accused persons namely Md. Habibar Rahman @Habib Ali and Md. Baharul Islam @Hantaz Ali are found not guilty u/s 341/324/34 I.P.C and hence, acquitted from the said charge and set at liberty forthwith. Bail bonds shall remain in force for a further period of six months.

Hence, this case stands disposed of.

Chief Judicial Magistrate,
Nalbari