

IN THE COURT OF ADDL. CHIEF JUDICIAL MAGISTRATE, NALBARI

G.R Case No:1537/2016

U/s 341/323 of I.P.C

State

-Versus-

Md. Ajim Ali

.....Accused Person

PRESENT: **Smti. Sorbani Bhattacharjee, A.J.S,**
Addl. Chief Judicial Magistrate,
Nalbari.

ADVOCATES APPEARED:

FOR THE PROSECUTION : Md. S. Ali. Ld. APP,

FOR THE ACCUSED PERSONS : Smti Jonali Das, Ld. Counsel.

EVIDENCE RECORDED ON : 25.02.2020.

ARGUMENT HEARD ON :07.11.2020.

JUDGMENT DELIVERED ON :07.11.2020.

JUDGMENT

- 1) The prosecution in this case was launched by the lodging of the ejahar with the Officer-in-Charge of the Ghograpar Police Station by the informant Md. Safed Ali on 07.10.2016 against the accused person namely Md. Ajim Ali, Md. Hajarat Ali and Md. Faijur Rahman to the effect that on 06.10.2016 at about 8 a.m., at river

embankment an altercation took place between the informant and the accused person Md. Hajrat Ali regarding grazing of cow. Regarding that incident, on 07.10.2016 at about 1 p.m., while the informant was returning home after performing jumma namaz in the mosque then all the FIR named accused persons restrained him on the road and pushed and dragged him. The accused person Azim Ali also gave him lathi blow on the arm and waist. As a result he sustained grievous injuries on his person. The accused person also gave threatening to kill him. Hence the case.

- 2) The Officer-in-charge, Ghograpar Police Station on receipt of the ejahar registered the same as Ghograpar P.S Case No.187/2016 u/s 341/352/325/506/34 of I.P.C and started investigation. After completion of the investigation the concerned I.O., submitted charge sheet against the accused person namely Md. Ajim Ali u/s 341/323 of IPC.
- 3) In due course the accused person appeared before the Court and the copies of relevant documents were furnished to him as per section 207 of CrPC. Having found a prima facie case against the accused person, the particulars of offences u/s 341/323 of IPC were read over and explained to him to which he pleaded not guilty and claimed to be tried.
- 4) The prosecution in support of its case examined only one witness i.e., the informant cum victim of this case. As per the submission of Ld. Assistant Public Prosecutor, further evidence of prosecution side was closed. In due course the statement of the accused u/s 313 of the Code of Criminal Procedure has been recorded. Defence side examined no witnesses. I have heard the arguments advanced by the Ld. counsels for both sides.

5) **POINTS FOR DETERMINATION:-**

- i. Whether the accused person, on 07.10.2016 at about 1 p.m., at village Majusiral under Ghograpar P.S., restrained the informant-cum-victim of the case in which he has every right to proceed and thereby committed the offence under section 341 of IPC ?
- ii. Whether the accused person, on the same day, time and place voluntarily caused hurt to the informant cum victim of the case Md. Safed Ali and thereby committed the offence under section 323 of IPC?

DISCUSSION, DECISION AND REASONS THERE OF:

- 6) The evidence of PW1 Md. Safed Ali reveals that the incident took place about four years back at about 1:30 p.m. On the date of incident an altercation took place between him and the accused in the paddy field regarding grazing of cow. He further deposed that accused Ajim Ali went to his house and told his father that he assaulted the accused person. Ajim Ali assaulted him with a piece of log. He sustained injury over his left hand. His son and wife took him to SMK Civil Hospital for his treatment. On the same day, he lodged the ejahar. Police recorded his statement. Exhibit-1 is the ejahar. In his cross-examination he stated that they have settled the matter amicably between them and he has no grievance against the accused person. He has no objection if the accused person is acquitted in this case.
- 7) Prosecution failed to examine any other witness in this case except the informant. In his evidence informant has not incriminated the accused of wrongfully restraining him and hence there is no

incriminating material against him for offence u/s 341 of IPC. The alleged offences u/s 341/323 of IPC are compoundable in nature and the matter has been settled amicably between both the parties. Although the informant cum victim in his evidence has alleged the accused of assaulting him with a piece of log but now he is having no grievance against the accused as revealed from his evidence. He also has no objection if accused is acquitted in this case. The version of the victim makes it crystal clear that he has compounded the offence of the accused.

- 8) Accordingly, the accused person namely Md. Ajim Ali is held not guilty u/s 341/323 of I.P.C and hence, he is acquitted and set at liberty forthwith. Bail bond of the accused person and his surety shall remain in force for a further period of six months as per amended CrPC.
Given under my hand and seal of this court on this 07th day of November, 2020.

Smti. Sorbani Bhattacharjee, A.J.S,
(Addl. Chief Judicial Magistrate),
Nalbari.

APPENDIX

PROSECUTION EXHIBITS:

Ext.1 :Ejahar,

DEFENCE EXHIBITS

NIL

PROSECUTION WITNESSES :

PW-1 : Md. Safed Ali ,

COURT WITNESSES :

NIL

DEFENCE WITNESSES

NONE

MATERIAL EXHIBITS

NIL

Smti. Sorbani Bhattacharjee, A.J.S,
(Addl. Chief Judicial Magistrate),
Nalbari.