

**IN THE COURT OF Munsiff No. 1 cum JMFC,
Nalbari**

Present: Dr. Nabanita Kalita

(Date of Judgment)
11.02.2022

PRC Case No. 1232/2019

(Details of FIR/Crime and Police Station)

COMPLAINANT:	STATE OF Assam
REPRESENTED BY	SMTI. PRITIMA DEVI, APP.
ACCUSED	1) ALTAF HUSSAIN
REPRESENTED BY	DIPIKA BARMAN

Date of Offence	03.03.2019
Date of FIR	04.03.2019
Date of Charge sheet	31.03.2019
Date of Framing of Charges	06.12.2019
Date of commencement of evidence	23.12.2021
Date on which judgment is reserved	20.01.2022, As I was detected Covid positive

Date of Judgment	11.02.2022
Date of the Sentencing Order, if any	NIL

Accused Details:

Rank of the Accused	Name of Accused	Date of Arrest	Date Release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec 428 Cr.P.C
A-1	Altaf Hussain	10.03.2019	10.03.2019	341/323/506 IPC	Acquitted	N/A	N/A

JUDGMENT

1. The case of the prosecution in a nutshell is that the accused person used to threaten the informant showing a knife at road and coming to the college that she would be pulled out. On 2.3.19 at about 7 pm while the informant and her brother Saru Ali were going to guest's house, the accused person near Pub-Kalakuchi High School showed knife to the informant and when her brother Saru Ali prevented, the accused person threatened him with dire consequences. It is further alleged by the informant that when informant's father Siraj Ali and Taijul Haque at about 8 pm went to the accused

person's house to give complaint, accused person physically assaulted both of them.

2. On receipt of the FIR, police of Mukalmua PS registered the same as Mukalmua PS Case no 27/18 under Section 341/323/506 IPC against the accused person and conducted investigation into the matter.

3. On completion of the investigation, the police submitted Charge sheet against the accused person namely Altaf Hussain under Section 341/323/506 IPC.

4. The accused person entered their appearance in response to the process issued. Copies of relevant documents were furnished to the accused person in accordance with section 207 Criminal Procedure Code.

5. Particulars of offence under section 341/323/506/ of IPC were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

6. During trial, the prosecution examined 2 (two) witnesses.

7. The statement of defence of the accused person has been dispensed with due to lack of incriminating materials against him. Defence declined to adduce DW evidence.

POINTS FOR DETERMINATION

i) Whether the accused person on 2.3.19 at about 7 p.m. wrongfully restrained the informant and her

brother and thereby committed an offence punishable under section 341 IPC?

ii) Whether the accused person on same date and at about 8 pm voluntarily caused hurt to the father of the informant and thereby committed an offence punishable under section 323 IPC?

iii) Whether the accused person on same date and time criminally intimidated the informant and thereby committed an offence punishable under section 506 IPC?

8. I have heard the learned counsel for both sides and have gone through the case record.

EVIDENCE ON RECORD

9. PW 1 Asnara Begum is the informant of this case. She deposed in her examination-in-chief that the incident took place in the year 2019. Accused Altaf Hussain wanted to marry her. PW 1 deposed that on the date of occurrence, she along with her father Siraj Ali and brother Saru Ali went to guest's house. Accused Altaf Hussain prevented their path. Then her father and brother went to the house of the accused person to inform about the matter and there verbal altercation took place. Thereafter out of anger, she lodged the ejahar. Ext. 1 is ejahar. Ext. 1(1) is her signature. After 15 days of lodging of the ejahar, the matter was settled among them in presence of village people. Since then, the accused person has not given any disturbance. PW deposed

that she got married. She does not want to proceed further with the case.

10. During cross examination, PW 1 stated that she has no objection if accused is acquitted.

11. PW 2 Siraj Ali deposed in his evidence that informant is his daughter. The incident took place 2 years ago. He deposed that he along with her daughter Asnara and son Taijul went to the guest's house and accused restrained them. When he went to the accused's house to inform the matter there verbal altercation took place for which in misunderstanding his daughter lodged the FIR. PW 2 further deposed that at present her daughter got married. Accused has not given any disturbance.

12. During cross examination, PW 2 stated that they have no objection, if accused is acquitted.

DISCUSSION, DECISION AND REASONS THEREOF

13. After going through the evidence of all the witnesses, it transpires that the witnesses have derailed from the allegations set forth in the FIR. From the deposition of the PW 1 it is seen that she has stated nothing incriminating against the accused in her evidence rather she deposed that she lodged the FIR out of anger and they have compromised the matter with the accused. She also expressed her unwillingness to proceed with the case. From the deposition of PW2 who is the victim

it appears that his daughter lodged the FIR for misunderstanding and accused person has not given them any disturbance. Moreover both PW1 and PW2 in their cross examination have stated that they have no objection if the accused person is acquitted in this case. Since the PW 1 and PW2 being the most vital witnesses did not implicate the accused person to the alleged crime, I do not find any force in the prosecution case to hold the accused guilty of the alleged crime.

14. Now it is the burden of the prosecution to establish the guilt of the accused person. From the evidence of the prosecution witnesses, it appears that the witnesses have not adduced any evidence to hold the accused person guilty under the alleged sections of IPC. Due to insufficient evidence on the part of the prosecution side, it is a fit case in my view to acquit the accused from the charges levelled against him. Hence, the accused person deserves acquittal

15. Situated thus, it is found that the prosecution has failed to implicate the accused person Altaf Hussain of any offence u/s 341/323/506 of IPC. As such, the points for determination are answered in negative and in favour of the accused person.

ORDER

In view of the discussion made above and the decisions reached in the foregoing points for determination, it is held that the prosecution failed to prove beyond reasonable doubt that the accused person had committed the offence under Section 341/323/506 IPC. As such, the accused person namely Altaf Hussain is acquitted of the charge under Section 341/323/506 IPC and set at liberty forthwith.

The bail bonds of the accused person and his sureties shall remain in force for a period of six months from today in compliance with section 437(A) Criminal Procedure Code.

Case is disposed of on contest.

Given under my hand and seal of this court on this 11th day of February, 2022 at Nalbari, Assam.

(DR. NABANITA KALITA)
Judicial Magistrate, 1st Class,
Nalbari.

APPENDIX**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)
PW1	Asnara Begum	Informant
PW2	Siraj Ali	Eye witness

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1	NIL	N/A

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW1	NIL	N/A

**LIST OF PROSECUTION/ DEFENCE /
COURT EXIBITS**

A. Prosecution:

Sr. No	Exhibit Number	Description
1	P.Ext-1/PW1	FIR
2	P.Ext-1 ₁ /PW1	Signature of PW1

B. Defence:

Sr. No	Exhibit Number	Description
1	Exhibit D1/ DW1	NIL

C. Court Exhibits:

Sr. No	Exhibit Number	Description
1	Exhibit C1/ CW1	NIL

D. Material Objects:

Sr. No	Exhibit Number	Description
1	MO1	NIL

DR. NABANITA KALITA)
Judicial Magistrate 1st Class,
Nalbari.