

**THE COURT OF THE SUB-DIVISIONAL JUDICIAL
MAGISTRATE (SADAR), NALBARI**

**PRESENT:- KAUSHIK KAMAL BARUAH, S.D.J.M.(S),
NALBARI.**

DATE OF JUDGMENT:- 03/02/2022

CASE NO:- PRC- 102/2019

COMPLAINANT	STATE OF ASSAM
REPRESENTED BY	SMT. MONIKA CHAKRABORTY
ACCUSED	1) SRI BANAMALI DEKA S/O LATE MAHESH CHANDRA DEKA R/O GOPALTHAN, CHANDKUCHI P.S. & DISTT:- NALBARI 2) SRI ARUP KALITA S/O LATE RAJAT KALITA R/O BAGHMARA P.S. GHOGRAPAR DISTT. NALBARI
REPRESENTED BY	SRI NABA KUMAR DUTTA <u>AND</u> SMT. DALIMI BARMAN

DATE OF OFFENCE	18/12/2017
DATE OF FIR	18/12/2017
DATE OF CHARGE-SHEET	31/01/2018
DATE OF FRAMING CHARGE	07/09/2019

DATE OF COMMENCEMENT OF EVIDENCE	24/10/2019
DATE ON WHICH JUDGMENT IS RESERVED	03/02/2022
DATE OF JUDGMENT	03/02/2022
DATE OF THE SENTENCING ORDER, IF ANY.	N/A

ACCUSED DETAILS

RANK OF THE ACCUSED	NAME OF ACCUSED	DATE OF ARREST	DATE OF RELEASE ON BAIL	OFFENES CHARGED	ACQUITTED/ CONVICTED	SENTENCE IMPOSED	PERIOD OF DETENTION UNDERGONE DURING TRIAL
A1	SRI BANAMALI DEKA	21/12/2017	08/01/2018	341/323/353/427/34 OF THE IPC	ACQUITTED	N/A	NIL
A2	SRI ARUP KALITA						

JUDGMENT

Accused Sri Banamali Deka and Sri Arup Kalita stood trial for offences punishable under sections 341/323/353/427/34 of the Indian Penal Code, 1860 (the IPC for short).

Material facts of the case as appears from the contents of the First Information Report (FIR for short) are as follows:- that, on 18/12/2017 at about 08:15 AM, informant, namely, Sri Chandi Charan Das, was performing his duty at the ticket counter of Ghograpar Railway Station, Nalbari. At that time, on account of crossing of the Down Rajdhani Express, the Manas Rhino Passenger train was

kept at halt for some time at the station. At that, some irate passengers of the said passenger train disembarked and manhandled the informant named above inflicting injuries on his person. That, the irate passengers had also damaged his belongings.

On the same day, informant named-above lodged a written FIR before the Officer-in-Charge (O/C for short) of Rangiya G.R.P.S. which was registered and numbered as Rangiya G.R.P.S. Case No.79/2017 u/s 341/323/353/427/34 of the IPC. During the course of investigation, the investigating officer (I/O) visited the place of occurrence, recorded statements of witnesses u/s 161 of the Code of Criminal Procedure, 1973 (the Cr.P.C. for short), collected medical report of the victim, made a rough sketch map of the place of occurrence, arrested the accused persons and forwarded them before the concerned jurisdictional Magistrate for taking necessary action against them. The concerned jurisdictional Magistrate was pleased to forward above named accused persons to judicial custody.

After completing the investigation, the I/O returned the case in Final Form for prosecution of the accused persons u/s 341/323/353/427/34 of the IPC.

In the meantime, above named accused persons were released on bail.

Court processes were issued and on their appearance the accused were allowed to go on bail. Copies of all relevant documents were furnished to the accused persons. Particulars of the offences u/s 341/323/353/427/34 of the IPC were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

Prosecution examined three (03) witnesses and closed evidence. Examination of the accused u/s 313 of the Cr.P.C. was dispensed with as nothing was deposed against them.

Heard arguments advanced by learned Assistant Public Prosecutor and learned defence counsel.

POINTS FOR DETERMINATION

- a) Whether accused Sri Banamali Deka and Sri Arup Kalita, on 18/12/2017 at about 08:15 AM at Ghograpar Railway Station under Rangiya G.R.P.S., in furtherance of their common intention wrongfully restrained Sri Chandi Charan Das?
- b) Whether the accused persons, on the same day, time and place, in furtherance of their common intention voluntarily caused hurt to said Sri Chandi Charan Das?

- c) Whether the accused persons, on the same day, time and place, in furtherance of their common intention assaulted or used criminal force on Sri Chandi Charan Das, a Railway employee, in the discharge of his duty as a public servant?
- d) Whether the accused persons, on the same day, time and place, in furtherance of their common intention committed mischief by causing loss to Sri Chandi Charan Das to the amount of Rs.50/- and upwards?

And, thereby the accused are liable to be punished u/s 341/323/353/427/34 of the IPC.

DISCUSSION, DECISION AND REASONS THEREON

In order to establish the allegations against the accused person, prosecution examined Sri Chandia Charan Das, Sri Gunajit Barman and Sri Binod Medhi as PW1, PW2, PW3 respectively and closed evidence.

PW1, Sri Chandi Charan Das, was the informant. His deposition is as follows:-

"I am the informant. The occurrence took place about two years ago. I have not recognized the accused persons present in

Court today. On the date of the occurrence at about 08:20 AM, when I was discharging my duties in the railway ticket counter at the Ghograpar Railway Station, some passengers of the Manas Rhino train approached the ticket counter and for no apparent reason manhandled me. As a result, I sustained injuries on my person. I immediately informed the Railway Police Force and filed the FIR. Ext.1 is the FIR and Ext.1(1) is my signature thereon. Police had seized my torn jacket vide Ext.2 whereon I affixed my signature vide Ext.2(1).

XXXXXXXXXX

I had not mentioned the names of the assailants in the FIR. I was rescued by RPF personnel."

PW2, Sri Gunajit Barman, stated as such:-

"Informant is my colleague. I have not recognized the accused persons present in Court today. I have no knowledge about the incident but police personnel took my signature on a seizure list. Ext.2(2) is my

signature thereon. I also have no knowledge about the contents of Ext.2.

XXXXXXXXXX

Cross Examination declined by defence."

Finally, PW3, Sri Binod Medhi, testified as follows:-

"I have not recognized the accused persons standing in the dock today. I know the informant. He is my colleague. I have no personal knowledge about the occurrence. However, I had affixed my signature on seizure list vide Ext.2(3). But, I do not know the contents thereof.

XXXXXXXXXX

Cross-examination declined by defence."

Above stated narration of facts is all that the prosecution has in its armory against the accused persons. But, even a cursory glance at it demonstrates that the informant, who was also the victim of the occurrence, had not at all incriminated the accused persons of the offences for which they were prosecuted. It appears from the testimonies tendered by above named witnesses, including the victim, that, the very identity of the assailants is in doubt. In addition to it, as the victim himself had failed to

recognize the accused persons as the one who manhandled him, it occurs to me that the very presence of the accused persons at the place of occurrence at the time of the incident can be very well ruled out from consideration.

In a nutshell, prosecution had failed to prove the allegations against accused Sri Banamali Deka and Sri Arup Kalita for the offences u/s 341/323/353/427/34 of the IPC beyond all shadow of doubt.

The points for determination are, therefore, decided in the negative.

ORDER

As such, from the observation and discussion done hereinbefore, I arrive at the conclusion that the prosecution had failed to establish the allegations against accused Sri Banamali Deka and Sri Arup Kalita for the offences u/s 341/323/353/427/34 of the IPC beyond all shadow of doubt. As such, the accused are acquitted of the offences under the sections of law indicated above.

Accused persons be set at liberty forthwith. Bail bonds of the accused persons stands effective for next six months from today. The accused persons may obtain copy of the judgment but not without payment. Seized articles, if any, be disposed of in due course.

Instant case is disposed of on contest.

Given under my hand and Seal of the Court this 3rd
day of February, 2022.

Typed and corrected by me and every page bears my
signature.

(Kaushik K. Baruah)
Sub-Divisional Judicial
Magistrate (Sadar),
Nalbari.

LIST OF
PROSECUTION/PROSECUTION/DEFENCE/COURT
WITNESSES

A. PROSECUTION:-

RANK	NAME	NATURE OF WITNESS
PW1	SRI CHANDI CHARAN DAS	EYE WITNESS
PW2	SRI GUNAJIT BARMAN	EYE WITNESS
PW3	SRI BINOD MEDHI	EYE WITNESS

B. DEFENCE WITNESSES, IF ANY:- NONE

C. COURT WITNESSES, IF ANY:- NONE

LIST OF PROSECUTION/DEFENCE/COURT
EXHIBITS

A. PROSECUTION:-

SL. NO.	EXHIBIT NO.	DESCRIPTION
1	Exhibit P-1/PW1 (Ext.1)	F.I.R.
2	Exhibit P-1 ₁ /PW1 [Ext.1(1)]	Signature of PW1, Sri Chandi Charan Das
3	Exhibit P-2/PW1 (Ext.2)	Seizure list
4	Exhibit P-2 ₁ /PW1 [Ext.2(1)]	Signature of PW1, Sri Chandi Charan Das
5	Exhibit P-2 ₂ /PW2 [Ext.2(2)]	Signature of PW1, Sri Gunajit Barman
6	Exhibit P-2 ₃ /PW3 [Ext.2(3)]	Signature of PW1, Sri Binod Medhi

B. DEFENCE:- NIL

C. COURT EXHIBITS:- NIL

D. MATERIAL OBJECTS:- NIL

(Kaushik K. Baruah)
Sub-Divisional Judicial
Magistrate (Sadar),
Nalbari.