

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

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

DATE OF JUDGMENT:- **25/02/2022**

CASE NO:- **PRC- 451/2019**

COMPLAINANT	<b>STATE OF ASSAM</b>
REPRESENTED BY	<b>SMT. MONIKA CHAKRABORTY</b>
ACCUSED	<b>MD. JEHERUL ALI @ ISLAM S/O MAFEJ ALI R/O NO-1 LOHARKATHA P.S. MUKALMUA DISTT. NALBARI</b>
REPRESENTED BY	<b>JEHERUL ISLAM</b>

DATE OF OFFENCE	<b>06/12/2018</b>
DATE OF FIR	<b>06/12/2018</b>
DATE OF CHARGE-SHEET	<b>30/12/2018</b>
DATE OF FRAMING CHARGE	<b>16/09/2019</b>
DATE OF COMMENCEMENT OF EVIDENCE	<b>31/10/2019</b>
DATE ON WHICH JUDGMENT IS RESERVED	<b>25/02/2022</b>
DATE OF JUDGMENT	<b>25/02/2022</b>
DATE OF THE SENTENCING ORDER, IF ANY.	<b>N/A</b>

## **JUDGMENT**

Accused Jeherul Ali @ Islam stood trial for offences punishable under sections 341/323 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 06/12/2018 at about 04:30 PM, while victim, Mintu Deka, was on his way to Modolabori plying his bicycle to collect money that was owed to him, above named accused person accosted him in front of Modolabori Temple under Mukalmua Police Station (PS for short) and without any rhyme or reason assaulted him with a knife inflicting severe injuries on his person.

On the same day, informant, Rashmi Deka, lodged a written FIR before the Officer-in-Charge (O/C for short) of Mukalmua P.S. which was registered and numbered as Mukalmua P.S. Case No.440/2018 u/s 326 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), made a rough sketch map of the place of occurrence, collected medical report of the victim, seized the offending article, arrested the accused person and forwarded him before the concerned jurisdictional Magistrate for taking necessary action against

him. The concerned jurisdictional Magistrate was pleased to forward the accused to judicial custody.

After completing the investigation, the I/O returned the case in Final Form for prosecution of the accused person u/s 341/323 of the IPC. In the meantime, the accused was allowed to go on bail.

Court processes were issued and on his appearance the accused was allowed to remain enlarged on his previous Court bail. Copies of all relevant documents were furnished to the accused person. Particulars of the offences u/s 341/323 of the IPC were explained to the accused person to which he pleaded not guilty and claimed to be tried.

Prosecution examined two (02) witnesses and closed evidence. Examination of the accused u/s 313 of the Cr.P.C. was dispensed with as nothing was deposed against him.

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

### **POINTS FOR DETERMINATION**

- a) Whether accused Md. Jeherul Ali @ Islam, on 06/12/2018 at about 04:30 PM in front of Modolabori Temple under Mukalmua P.S., wrongfully restrained Mintu Deka?

b) Whether the accused person, on the same day, time and place, voluntarily caused hurt to said Mintu Deka?

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

### **DISCUSSION, DECISION AND REASONS THEREON**

In order to establish the allegations against the accused person, prosecution examined Rashmi Deka and Mintu deka as PW1, PW2 respectively and closed evidence.

PW1, Rashmi Deka, was the informant. Her deposition is as follows:-

**"I am the informant. The occurrence took place about three years ago. Accused person is my immediate neighbor. On the date of the occurrence at about 04:30 PM my son had an altercation with the accused person on a trivial matter and on a misunderstanding I went to file FIR against him. Ext.P-1/PW1 is the FIR and Ext.P1<sub>A</sub>/PW1 is my signature thereon. However, no occurrence as alleged in the FIR**

**had taken place and I have no objections if the accused is acquitted.**

**XXXXXXXXXX**

**Cross-examination declined by defence.”**

PW2, Mintu Deka, stated as such:-

**“Informant is my mother. Occurrence took place about three year ago. Accused person is our immediate neighbors. On the date of the occurrence I had an argument with the accused person on a minor issue and on a misunderstanding my mother filed an FIR against him. But, no occurrence as alleged by my mother took place and I have no allegations against him and no objections if he is acquitted.**

**XXXXXXXXXX**

**Cross Examination declined by defence.”**

Above stated narration of facts is all that the prosecution has in its armory against the accused person. But, even a cursory glance at it demonstrates that the victim of the occurrence had not at all incriminated the accused person of the offences for which he was prosecuted. It appears from the testimonies tendered by

above named witnesses, including the victim, that, the occurrence took place simply out of a misunderstanding on the part of the informant and nothing more. In my view, there is not a shred of evidence against the accused person named above.

In a nutshell, prosecution had failed to prove the allegations against accused Md. Jeherul Ali @ Islam for the offences u/s 341/323 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 Md. Jeherul Ali @ Islam for the offences u/s 341/323 of the IPC beyond all shadow of doubt. Therefore, the accused is acquitted of the offences under the sections of law indicated above.

Accused person be set at liberty forthwith. Bail bonds of the accused person stands effective for next six months from today. The accused person may obtain copy of the judgment but not without payment.

Seized article, 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 25<sup>th</sup>  
day of February, 2022.

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

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

**ACCUSED DETAILS**

RANK OF THE ACCUSED	NAME OF ACCUSED	DATE OF ARREST	DATE OF RELEASE ON BAIL	OFFENCES CHARGED	ACQUITTED/ CONVICTED	SENTENCE IMPOSED	PERIOD OF DETENTION UNDERGONE DURING TRIAL
<b>A1</b>	<b>MD. JEHERUL ALI @ ISLAM S/O MAFEJ ALI R/O NO-1 LOHARKA THA</b>	<b>20/12 /2018</b>	<b>28/12 /2018</b>	<b>341/323 OF THE IPC</b>	<b>ACQUITTED</b>	<b>N/A</b>	<b>NIL</b>

**LIST OF PROSECUTION/PROSECUTION/DEFENCE/COURT WITNESSES**

**A. PROSECUTION:-**

RANK	NAME	NATURE OF WITNESS
<b>PW1</b>	<b>RASHMI DEKA</b>	<b>SECONDARY WITNESS</b>
<b>PW2</b>	<b>MINTU DEKA</b>	<b>EYE WITNESS</b>

**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	<b>Exhibit P-1/PW1</b>	<b>F.I.R.</b>
2	<b>Exhibit P-1<sub>A</sub>/PW1</b>	<b>SIGNATURE OF PW1, RASHMI DEKA</b>

**B. DEFENCE:-** NIL

**C. COURT EXHIBITS:-** NIL

**D. MATERIAL OBJECTS:-** NIL

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