

			bail		convicted		for the purpose of section 428 of IPC
A-1	Sri Kusumba r Kalita			U/S 341/323 /34 of IPC	Acquitted	N/A	N/A
A-2	Sri Gandhiana Kalita @ Pabin Kalita						

APPENDIX-13

Date of offence	07/11/2019
Date of FIR	08/11/2019
Date of charge-sheet	28/11/2019
Date of O.E.	10/06/2022

Date of commencement of evidence	08/09/2022
Date on which judgment is reserved	N/A
Date of judgment	08/09/2022
Date of the Sentencing Order, if any	N/A

(J U D G M E N T)

1. The prosecution case sets into motion by filing a FIR by the informant, Md. Badrul Ali on 08/11/2019 stating that on 07/11/2019 at about 8:45 P.M., when he was coming home from his work, the accused persons namely Sri Kusumbar Kalita and Sri Gandhiya Kalita along with 5/6 persons wrongfully restrained him on road, assaulted him causing injury to his person and also took away Rs. 3000/- and mobile phone from him. Hence, he has lodged this case.
2. The Officer-in-charge, Nalbari Police station, registered Nalbari P.S. Case No. 809/19, under section 341/323/379/34 of IPC and endorsed the concerned I/O for investigation. After completion of the investigation, the concerned I/O submitted charge sheet against the accused persons namely Sri Kusumbar Kalita and Sri Gandhiya Kalita @ Pabin Kalita under Section 341/323/34 of IPC.
3. In due course, the accused persons appeared before the Court and the copies of relevant documents were furnished to

them as per section 207 of CrPC. Particulars of offence U/S 341/323/34 of IPC were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

4. The prosecution side examined one (01) witness. As per the submission of Ld. Assistant Public Prosecutor, further evidence of prosecution side was closed as the informant/victim of the case does not support the prosecution case.
5. The statements of the accused persons under section 313 of CrPC are dispensed with as there are no incriminating materials found against the accused persons. Defence side examined no witnesses.
6. I have heard the arguments advanced by the Ld. Counsels for both sides.

7. POINTS FOR DETERMINATION:-

- (i) *Whether the accused persons, in furtherance of their common intention, on 07/11/2019 at about 8:45 P.M., at Pagladiya River Bridge, under the jurisdiction of Nalbari P.S. restrained the informant Md. Badrul Ali and thereby committed an offence punishable under section 341/34 of I.P.C.?*
- (ii) *Whether on the same day, time and place the accused persons, in furtherance of their common intention, voluntarily caused hurt to the informant*

Md. Badrul Ali and thereby committed an offence u/s 323/34 of I.P.C?

DISCUSSION, DECISION AND REASONS THEREOF:

- 8.** In the instant case, the prosecution side adduced evidence of only one witness i.e., the informant/victim, but he has not supported the prosecution story.
- 9.** According to PW-1, Md. Badrul Ali (informant), he lodged this case due to misunderstanding. He lodged this case about 3 years back. He does not want to proceed with the case by adducing evidence. He has no allegation against the accused. They have amicably settled their dispute. During cross-examination PW-1 says that he has no objection if the accused gets acquittal in this case.
- 10.** From the evidence of PW-1 (informant) it is seen that he has no allegation against the accused and the case was lodged due to misunderstanding. There is nothing in the evidence incriminating against the accused persons that they have committed an offence under section-341/323/34 of IPC.
- 11.** Situated thus, in my considered opinion the prosecution side has failed to bring home the guilt of the accused persons Under Section 341/323/34 of IPC as the informant/victim of the case have not supported the prosecution story.

CONCLUSION

- 12.** The prosecution side failed to prove its case that accused persons have committed offence u/s 341/323/34 of IPC.

ORDER

In the light of aforesaid discussions and reasons, it is seen that the prosecution side failed to prove the guilt of the accused persons beyond reasonable doubt.

Accordingly, the accused persons namely Sri Kusumbar Kalita and Sri Gandhiya Kalita @ Pabin Kalita are acquitted from the offence under section 341/323/34 of IPC and they are set at liberty forthwith.

The bail bonds of the accused persons and their sureties shall remain in force for a period of 6 months from today as per amended Cr.P.C.

Given under my hand and seal of this court on this 08th day of September, 2022.

Sri Jayanta Kumar Saikia
Addl. Chief Judicial Magistrate
Nalbari

APPENDIX-14**LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES****A. Prosecution witness**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Md. Badrul Ali	Informant

B. Defence witnesses, if any: NOT APPLICABLE

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
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C. Court witnesses, if any: NOT APPLICABLE

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
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LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS

A. Prosecution: NOT APPLICABLE

Sr. No.	Exhibit Number	Description
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B. Defence: NOT APPLICABLE

Sr. No.	Exhibit Number	Description
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C. Court Exhibits: NOT APPLICABLE

Sr. No.	Exhibit Number	Description
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D. Material Objects: Not applicable

Sr. No.	Exhibit Number	Description
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Sri Jayanta Kumar Saikia
Addl. Chief Judicial Magistrate
Nalbari