

			bail		convicted		for the purpose of section 428 of IPC
A-1	Md. Saharu ddin @ Sahard din	29/11/2019	29/11/2019	U/S 448/325 /34 IPC	Acquitted	N/A	N/A
A-2	Md. Bakkau ddin @ Bakka Ali						

APPENDIX-13

Date of offence	03/11/2019
Date of FIR	04/11/2019
Date of charge-sheet	30/11/2019
Date of framing of charges	10/06/2022
Date of commencement of evidence	22/09/2022
Date on which judgment is reserved	N/A
Date of judgment	22/09/2022
Date of the Sentencing Order, if any	N/A

(J U D G M E N T)

- 1.** The prosecution case in brief as unfolded from the 'ejahar' filed by the informant Md. Islamuddin alleging that the accused persons namely Md. Saharuddin and Md. Bakkauddin are his relatives, due to family dispute the accused persons criminally trespassed into his house on 03/11/2019 at about 10:30 P.M. and assaulted the informant with an iron rod due to which he has fractured on his left hand and sustained injury on his right leg and on his forehead. Hence, the informant lodged this case.
- 2.** The Officer-in-charge, Mukalmua Police station, on receipt of the Ejahar registered Mukalmua P.S. Case No. 517/19, under section 448/326 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 Md. Saharuddin @ Saharddin and Md. Bakkauddin @ Bakka Ali u/s 448/325/34 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 Cr.P.C. Having found a prima facie case against the accused persons, the charge is framed, under Section 448/325/34 of IPC against the accused persons, which is read over and explained to them vide order dated 10-06-2022, to which they pleaded not guilty and claimed to be tried.

4. The prosecution side examined one (01) witness. The Learned Assistant Public Prosecutor prayed to close the PW evidence as no incriminating material is found against the accused person. The PW evidence is closed as per the submission of the Ld. APP.
5. The statements of the accused persons under section 313 of Cr.P.C. 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 Learned Counsels for both sides.

7. POINTS FOR DETERMINATION:-

- (i) *Whether the accused persons in furtherance of their common intention, on 03/11/2019 at about 10:30 P.M., at No. 1 Kandhbari under Mukalmua P.S. committed house trespass by entering the house of the informant Md. Islamuddin with intent to commit offence and thereby committed an offence u/s 448/34 of I.P.C ?*
- (ii) *Whether on the same date, time and place the accused persons in furtherance of their common intention, voluntarily caused grievous hurt to informant Md. Islamuddin and thereby committed an offence u/s 325/34 of I.P.C?*

DISCUSSION, DECISION AND REASONS THEREOF:

- 8.** In the instant case the prosecution side adduced the evidence of PW-1, Md. Islamuddin who is the informant and victim of this case. During his evidence he has not supported the prosecution case. According to him the accused persons are his uncles and his neighbors. Due to misunderstanding he lodged this case in the year 2019. He has amicably settled their dispute outside the court. He has no allegation against the accused and he does not want to proceed with this case by adducing evidence. They are living peacefully. During cross-examination PW-1 (informant) stated that he has no objection if the accused persons get acquittal in this case.
- 9.** From the evidence on record it is found that the instant case is lodged due to misunderstanding and no incriminating material found in the evidence adduced by the prosecution side in their favour.
- 10.** Situated thus, in my considered opinion the prosecution side has failed to bring home the guilt of the accused persons under section-448/325/34 of IPC as the informant/victim of the case has not supported the prosecution story.

CONCLUSION

The prosecution side failed to prove its case that accused has committed offence u/s 448/325/34 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 Md. Saharuddin @ Saharddin and Md. Bakkauddin @ Bakka Ali are acquitted from the offence under section 448/325/34 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 22nd 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. Islamuddin	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