

			bail				for the purpose of section 428 of IPC
A-1	Md. Matibar Rahman @ Matish Ali	24/10/2021	24/10/2021	U/S 448/323 /506 of IPC	Acquitted	N/A	N/A

APPENDIX-13

Date of offence	20/10/2021
Date of FIR	20/10/2021
Date of charge-sheet	30/10/2021
Date of O.E.	23/06/2022
Date of commencement of evidence	09/09/2022
Date on which judgment is reserved	N/A
Date of judgment	09/09/2022
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. Sahid Ali stating that on 20-10-2021 at 5:00 P.M., the son of the informant Md. Mahidul Islam who was 11 years old was chased and assaulted by the accused Md. Matibar Rahman @ Matish Ali. Hence, informant lodged this case.
- 2.** The Officer-in-charge, Ghograpar Police station, on receipt of the Ejahar registered Ghograpar P.S. Case No. 551/2021, under section 448/427/323/506 of IPC R/W Sec. 75 JJ Act and endorsed the concerned I/O for investigation. After completion of the investigation, the concerned I/O submitted charge sheet against the accused, Md. Matibar Rahman @ Matish Ali, Under Section 448/323/506 of IPC.
- 3.** In due course, the accused appeared before the Court and the copies of relevant documents were furnished to him as per section 207 of CrPC. Particulars of offence u/s 448/323/506 IPC were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
- 4.** The prosecution, in support of its case, examined two (02) witnesses. As per the submission of Ld. Assistant Public Prosecutor, further evidence of prosecution side was closed as

the informant and victim of the case have not supported the prosecution case.

5. The statement of the accused person under section 313 of Cr.P.C. is dispensed with as there are no incriminating materials found against the accused person. 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 Md. Matibar Rahman @ Matish Ali, on 20-10-2021 at 5:00 P.M., at Kayajani, under the jurisdiction of Ghograpar P.S., criminally trespassed into the dwelling house of Md. Kadir Ali with an intent to commit offence or to intimidate or insult or annoy any person in possession of the property and thereby committed offence punishable U/S 448 I.P.C.?*
- (ii) *Whether the accused, Md. Matibar Rahman @ Matish Ali, on same day, time and place, voluntarily caused hurt to the son of the informant Md. Mahidul Islam and thereby committed an offence punishable u/s 323 of IPC?*
- (iii) *Whether the accused, Md. Matibar Rahman @ Matish Ali, on same day, time and place, committed criminal intimidation by threatening the informant*

Md. Sahid Ali in order to cause alarm to him and thereby committed the offence under section 506 of IPC ?

DISCUSSION, DECISION AND REASONS THEREOF:

- 8.** In the instant case, the prosecution side adduced evidence of two witnesses, but none have supported the prosecution story.
- 9. PW-1,** Md. Sahid Ali, informant of the case deposed that he lodged this case against the accused person who is his neighbour. About one year back, his minor son had a quarrel with the son of the accused when they were playing. Due to misunderstanding, a verbal altercation took place when they, the elders got involved. They amicably settled their dispute outside the court and they are living peacefully. He is not interested to proceed with this case by adducing evidence. He has no allegation against the accused. During cross-examination PW-1 deposed that he has no objection if the accused person gets acquittal in this case.
- 10.** PW-2, Md. Mahidul Ali deposed that his father lodged this case against the accused person who is his neighbour. About one year back, he had a quarrel with the son of the accused when they were playing. Due to misunderstanding, a verbal altercation took place when their guardians got involved. Now, they amicably settled their dispute outside the court and they are living peacefully. He has no allegation against the accused. During cross-

examination PW-2 deposed that he has no grievance against the accused.

11. From the evidence of PW-1 (informant) and PW-2 (victim), it is seen that they amicably settled their dispute outside the court and they are living peacefully. They have no allegation against the accused. Hence, there is nothing in the evidence incriminating against the accused person that he has committed an offence under section-448/323/506 of IPC.

12. Situated thus, in my considered opinion the prosecution side has failed to bring home the guilt of the accused person Under Section 448/323/506 of IPC as the informant and victim of the case have not supported the prosecution story.

CONCLUSION

The prosecution side failed to prove its case that accused has committed an offence u/s 448/323/506 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 person beyond reasonable doubt.

Accordingly, the accused Md. Matibar Rahman @ Matish Ali is acquitted from the offence under section 448/323/506 of IPC and he is set at liberty forthwith.

The bail bond of the accused person and his surety 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 09th 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. Sahid Ali	Informant
PW-2	Md. Mahidul Ali	Other witness

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,
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		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