

**IN THE COURT OF ADDL. C.J.M :::::::::::::::::::::NALBARI**

Present: *Sri Jayanta Kumar Saikia,*  
*Addl. CJM, Nalbari.*

(Date of judgment: 22/09/2022)

**(PRC No. 631/2018)**

**U/S 148/447/323/506/427 IPC R/W sec. 149 IPC**

INFORMANT:	Md. Faj Ali
REPRESENTED BY	Sri. Arjun Barman, Ld. APP
ACCUSED	Md. Hanif Ali, Md. Tajir Ali, Md. Kader Ali, Md. Chandmahammad Ali, Md. Papu Ali, Md. Babu Ali, Md. Rajib Ali and Md. Boga Ali
REPRESENTED BY	Md. Abdul Majid Ld. Advocate
Date of Judgment	22/09/2022

## Accused details

Rank of the	Name of the	Date of	Date of	Offences charge	Whether acquitted	Sentence	Period of detention
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accused	accused	arrest	release on bail	with	or convicted	imposed	under gone during trial for the purpose of section 428 of IPC
A-1	Md. Hanif Ali,			U/S 148/447/323/506/427 IPC	Acquitted	N/A	N/A
A-2	Md. Tajir Ali,			R/W sec. 149 IPC			
A-3	Md. Kader Ali,						
A-4	Md. Chandmammad Ali,						
A-5	Md. Papu Ali,						
A-6	Md. Babu Ali,						
A-7	Md. Rajib						

A-8	Ali, Md. Boga Ali						
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## APPENDIX-13

Date of offence	10/06/2018
Date of FIR	11/06/2018
Date of charge-sheet	31/07/2018
Date of framing of charges	11/09/2019
Date of commencement of evidence	07/06/2022
Date on which judgment is reserved	22/09/2022
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 sets into motion by filing a FIR by the informant, Md. Faij Ali, stating that on 10.06.2018 a village bichar was organized in the courtyard of the informant regarding marriage of the daughter of Md. Hanif Ali i.e., Musstt. Jasmin with son of the informant namely Md.

Saifuddin Ahmed. While the talk was going on than at 11:00 P.M., the accused persons namely Md. Hanif Ali, Md. Tajir Ali, Md. Alim Ali, Md. Kader Ali, Md. Chand Mahammad, Md. Rajib Ali, Md. Papu Ali, Md. Babu Ali, Md. Baga Ali and Md. Dhan Ali started assaulting the family members of the informant as a result they sustained injury. Moreover, the accused persons committed mischief by breaking house hold goods and damaged the verandah of the house of the informant. Hence, this case.

- 2.** The Officer-in-charge, Mukalmua Police station, on receipt of the Ejahar registered Mukalmua P.S. Case No. 219/2018 under section 147/148/149/447/325/326/448/427/506 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. Hanif Ali, Md. Tajir Ali, Md. Kader Ali, Md. Chandmahammad Ali, Md. Papu Ali, Md. Babu Ali, Md. Rajib Ali and Md. Boga Ali under Section 147/148/149/447/325/506/427 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. Having found prima facie case against the accused persons, the charge are framed, under Section 148/447/323/506/427/149 of IPC against the accused persons, which is read over and explained to them vide order dated 11-09-2019, to which they pleaded not guilty and claimed to be tried.

4. The prosecution side examined three (03) witnesses. The Learned Assistant Public Prosecutor prayed to close the PW evidence as no incriminating material is found against the accused persons. 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, on 10-06-2018 at about 11:00 PM at village Madhapur were members of an unlawful assembly and in prosecution of the common object of such assembly committed the offence of rioting with deadly weapon or with anything which used as an weapon of offence is likely to cause death and thereby committed an offence u/s 148/149 of I.P.C ?*
- (ii) *Whether on the same day, time and place, the accused persons, in prosecution of the common object of the assembly committed criminal trespass by entering the courtyard of the informant Md. Fajj Ali with intent to commit offence or to intimidate, insult or annoy any person in possession of the*

*property and thereby committed an offence u/s 447/149 of IPC ?*

- (iii) *Whether on the same day, time and place, the accused persons, in prosecution of the common object of assembly voluntarily caused hurt to Musstt. Rajema Bibi and Md. Saifuddin Ahmed and thereby committed an offence u/s 323/149 of IPC?*
- (iv) *Whether on the same day, time and place, the accused persons, in prosecution of the common object of assembly threatened the informant and his family members, with injury to their person or reputation or property with intend to cause alarm and thereby committed an offence u/s 506/149 of IPC?*
- (v) *Whether on the same day, time and place, the accused persons, in prosecution of the common object of assembly committed mischief by breaking plastic chairs and other house hold goods and damaged the verandha of the house of the informant causing loss or damage to the amount of Rs. 50 or upwards and thereby committed an offence u/s 427/149 of IPC?*

**DISCUSSION, DECISION AND REASONS THEREOF:**

- 8.** The instant case is registered on the receipt of the FIR lodged by PW-1, Md. Faiz Ali, who is the informant of this case. From the testimony of PW-1 it is found that he knows all the

accused persons. They are his relatives. They are his neighbours also. Due to misunderstanding, they both parties lodged cross cases against each other. The cross case lodged against him is pending in the court of Ld. S.D.J.M.(S), Nalbari. They have amicably settled their dispute outside the court and they are not interested to proceed with the case by adducing evidence. He has no allegation against the accused persons. During cross-examination PW-1 stated that he has no objection if the accused persons get acquittal in this case. His wife Rejima Bibi, Son Saifuddin stay with him. They are also having no objection if the accused persons get acquittal in this case.

**9.** PW-2, Musst. Rejima Bibi deposed that her husband is the informant of this case. He lodged this case against the accused persons who are her relatives. Due to misunderstanding, the case was lodged. Now, they have amicably settled their dispute. They do not want to proceed with the case by adducing evidence. They are living peacefully. During cross-examination PW-2 stated that she has no allegation against the accused persons.

**10.** PW-3, Md. Saifuddin Ahmed deposed that his father is the informant of this case. He lodged this case against the accused persons who are their relatives. Due to misunderstanding, the case was lodged. Now, they have amicably settled their dispute. They do not want to proceed with the case by adducing evidence. They are living

peacefully. He does not have any grievance against the accused. During cross-examination PW-3 stated that he has no allegation against the accused persons.

**11.** From the evidence of PW-1 (informant), PW-2 and PW-3, it is seen that they amicably settled their dispute and they have no allegation against the accused persons. Hence, there is nothing in the evidence incriminating against the accused persons that they have committed offence under section-148/447/323/506/427/149 of IPC.

**12.** Situated thus, in my considered opinion the prosecution side has failed to bring home the guilt of the accused persons under section-148/447/323/506/427 IPC R/W sec. 149 IPC as the informant of the case and the other witnesses have not supported the prosecution story.

### **CONCLUSION**

The prosecution side failed to prove its case that accused persons have committed offence u/s 148/447/323/506/427 IPC R/W sec. 149 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.



Accordingly, the accused persons namely Md. Hanif Ali, Md. Tajir Ali, Md. Kader Ali, Md. Chandmahammad Ali, Md. Papu Ali, Md. Babu Ali, Md. Rajib Ali and Md. Boga Ali are acquitted from the offence Under Section 148/447/323/506/427 IPC R/W sec. 149 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. The seized materials to be disposed of as per law.

**Given under my hand and seal of this court on this 22<sup>nd</sup> day of September, 2022.**

Sri Jayanta Kumar Saikia  
Addl. Chief Judicial Magistrate  
Nalbari

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

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Md. Faiz Ali	Informant
PW-2	Musst. Rejima Bibi	Other witness
PW-3	Md. Saifuddin Ahmed	Other witness

**B. Defence witnesses, if any: NOT APPLICABLE**

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

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (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**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
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**B. Defence: NOT APPLICABLE**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
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**C. Court Exhibits: NOT APPLICABLE**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
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**D. Material Objects: Not applicable**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
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Sri Jayanta Kumar Saikia  
Addl. Chief Judicial Magistrate  
Nalbari