

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,
NALBARI**

Present : Imdad Ahmed, Chief Judicial Magistrate, Nalbari.

Date of Judgment – 26/09/2022

Case – PRC no. 1370/2022

The case arose out of FIR lodged by informant Sri Biswajit Baro, registered on 16/07/2022 vide Nalbari P.S case no. 302 u/s 224/307/326/353 IPC under Nalbari District.

Complainant :	State of Assam Or Name of the complainant (Sri Biswajit Baro)
Represented by	Mr. D. Talukdar (Ld. APP)
Accused	1. Mohammad Kasif / A-1, S/o – Sagir Ahmed, Village – Burawali, PS - Adampur & Dist – Amroha (Uttar Pradesh).
Represented by	Smti Kakali Devi (Ld. Defence Advocate)

Date of Offence	16/07/2022
Date of FIR	16/07/2022
Date of Charge sheet	30/07/2022 vide Charge sheet no. 211
Date of Framing of Charges	25/08/2022
Date of commencement of evidence	26/09/2022
Date on which judgment is reserved	N/A
Date of Judgment	26/09/2022
Date of the Sentencing Order, if any	N/A

J U D G M E N T

PROSECUTION CASE:

1. The prosecution case in brief as unfolded from the 'ejahar' dated 16/07/2022 filed by the informant Sri Biswajit Baro is that on 16/07/2022 at 1 pm, he along with ASI Bhupen Kalita and some staff of Nalbari Traffic branch went to Barjar Nalbari as per information received vide GD entry no. 385 regarding an accident between one Swift Dzire vehicle and one truck. After reaching the P.O, they seized the Swift Dzire bearing registration no. AS-01-BP-1340 and truck bearing registration no. HR-55-AB-1342 which were involved in the accident and UBC 269 Umesh Haloi took the Swift Dzire car to Nalbari PS and he along with HG Faizuddin Ahmed took the

truck to a parking available at Nalbari Ganesh Mandir and after reaching the parking place, he and Faizuddin disembarked from the truck and signaled the truck to make entry inside the said parking. But the driver of the truck disobeyed their signal and rushed towards him with intent to kill and restrained him from doing his Government duty. The driver of the truck took out one sharp weapon from the inside of the truck and hit him on his left hand finger causing severe injury to him and fled away and thereafter, his accompanying staff namely Joynur Ali, Pankaj Haloi and Faizuddin brought the truck to Nalbari PS and he then lodged ejahar against the driver of the truck at Nalbari P.S. Hence the case.

2. The said 'ejahar' was received and registered as Nalbari PS case no. 302/22 u/s 353/326/307/224 I.P.C. After completion of investigation charge-sheet no. 211 dated 30/07/2022 was submitted against accused Mohammad Kasif u/s 224/324/353 I.P.C. Copy was furnished to the accused person. Charges u/s 224/324/353 IPC was framed, read over and explained to the accused person to which the accused pleaded not guilty and claimed to be tried.

3. POINTS FOR DETERMINATION

(i) Whether on 16/07/2022 at 1 pm, at Ganesh Mandir chowk under Nalbari P.S, the accused intentionally offered resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he was charged or

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attempted to escape from the custody of the informant and thereby committed an offence punishable u/s 224 I.P.C?

(ii) Whether on the aforesaid date, time and place the accused voluntarily caused hurt to the informant by means of any instrument for stabbing or cutting, which used as weapon of offence, is likely to cause death and thereby committed an offence punishable u/s 324 I.P.C?

(iii) Whether on the aforesaid date, time and place the accused assaulted or used criminal force to the informant being a public servant in execution of his duty, with intent to prevent him from discharging his duty as public servant and thereby committed an offence punishable u/s 353 I.P.C?

4. DECISION AND REASONS THEREOF:

The prosecution examined the informant as PW-1. The defence declined to adduce any evidence. Finding no incriminating materials, the statement in defence of the accused person u/s 313 Cr.P.C was dispensed with. I have heard the argument advanced by learned counsel of both the sides and also perused the evidence available on record, my findings with reasons are as follows –

5. PW-1, Biswajit Baro who is the informant deposed that the incident occurred on 16/07/2022 at about 1 pm. At that time he along with Bhupen Kalita went to Borjhar in connection with a case of accident between one Swift Dzire and one truck. The I/O Bhupen Kalita seized both the vehicles and

the swift was taken to PS and the I/O instructed him to take the truck to Ganesh Mandir parking yard and accordingly he sat inside the truck and told the driver to take the truck to Ganesh Mandir parking yard. After arriving at Ganesh Mandir in the said truck, he showed the driver the place to park the truck and then the driver instead of parking the truck in the place shown by him, took the truck towards another place speedily and disobeyed his instruction. Thereafter an altercation took place between him and the driver of the truck. Hence, he filed this case. PW-1 deposed that later he settled the matter amicably with the accused person and he does not have any objection if the accused is acquitted in this case. Exhibit P-1 / PW-1 is the ejahar and Exhibit P-1(1) / PW-1 is his signature.

6. PW-1 during his cross-examination deposed that he does not have any objection if the accused is acquitted in this case.

7. This is a case under Section 224/324/353 IPC, where PW-1 who is the informant of this case stated in his evidence that he has amicably settled the matter with the accused person and he does not have any objection if the accused is acquitted from this case. Now, PW-1 being the main witness did not support his own case and as such the guilt of the accused person could not be established by the prosecution. Hence, the accused person is hereby declared not guilty of the offence u/s 224/324/353 of the Indian Penal Code.

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8. Considering the nature of evidence adduced by the prosecution, the accused Mohammad Kasif is hereby acquitted from the charges u/s 224/324/353 I.P.C. Bail bond is extended till the expiry of six months from today.

9. Judgment is pronounced in open court. Case is disposed of on contest.

10. Given under my hand and seal of this court on this 26th day of September, 2022.

Chief Judicial Magistrate
Nalbari

Accused Details

Rank of the accused	Name of accused	Date of Arrest	Date of release on bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec. 428 Cr.P.C
A-1	Mohammad Kasif	16/07/2022	17/07/2022	224/ 324/ 353 IPC	Acquitted	N/A	N/A

Chief Judicial Magistrate
Nalbari

List of Prosecution / Defence / Court Witnesses

A. Prosecution:

Rank	Name	Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other witness)
PW-1	Sri Biswajit Baro	Informant

B. Defence Witnesses, if any:

Rank	Name	Nature of evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other witness)
Nil		

C. Court Witnesses, if any:

Rank	Name	Nature of evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other witness)
Nil		

Chief Judicial Magistrate
Nalbari

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit number	Description
1.	Exhibit P-1 / PW-1	Ejahar
2.	Exhibit P-1(1) / PW-1	Signature of informant

B. Defence:

Sr. No.	Exhibit Number	Description
Nil		

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
Nil		

D. Material Objects:

Sr. No.	Exhibit Number	Description
Nil		

Chief Judicial Magistrate
Nalbari