

IN THE COURT OF JUDICIAL MAGISTRATE 1ST
CLASS::::NALBARI

Present: SMTI NADIA REHMAN, AJS, JMFC, Nalbari

Dated:29.09.2022

G.R.Case No.581 of 2015

Belsor P.S.Case No.78/2015

(F.I.R. registered u/s 447/341/325/323/294/506/354/34
I.P.C.)

COMPLAINANT :	State of Assam
REPRESENTED BY	Mr. Hem Chandra Sarma, Ld. APP
ACCUSED	1) Sri Mela Haloi (A-1), 2) Sri Dhan Haloi (A-2)
REPRESENTED BY	Smti. Aparajita Bhattacharjee Ld. Defence Counsel

Date of Offence	14-04-2015
Date of FIR	21-04-2015
Date of Charge sheet	29-04-2015
Date of charge explanation	08-05-2019
Date of commencement of evidence	01-09-2022
Date on which judgment is reserved	N/A

Date of Judgment	30-09-2022
Date of the Sentencing Order, if any	Acquitted

: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	Mela Haloi	Not arrested	N/A	U/s- 447/341/325/323/294/506/ 354/34 of IPC	Acquitted	N/A	N/A
A-2	Dhan Haloi	Not arrested	N/A	U/s- 447/341/325/323/294/506/ 354/34 of IPC	Acquitted	N/A	N/A

(JUDGMENT)

1. In this case the accused persons namely Sri Mela Haloi, S/O:Sri Halo Haloi and Sri Dhan Haloi, S/O: Lt. Bagoram Haloi, both are of Village:Kakaya, P.S.:Belsor

& Dist:-Nalbari (Assam) stood for trial u/s 447/341/325/323/294/506/354/34 of the IPC.

2. Prosecution case as unfolded from the ejahar, dated 21.04.2015, lodged before O/C Belsor P.S., by the informant Sri Chandan Haloi is that on 14.04.2015 at about 3:30 p.m., the accused persons illegally entered into the courtyard of the informant and regarding the partition of the landed property restrained them at their courtyard and gave fist and blows to him. As a result of which he sustained grievous injuries. When his wife Sri Anima Haloi and his daughter Juri Haloi tried to prevent the accused persons then the accused persons also gave fist and blows to them and injured them. The accused persons also rebuked them by using obscene language and threatened them to kill in future. The accused person also outrage the modesty of his wife Sri Anima Haloi. Before this, the accused persons on various occasions quarreled with them. Hence, this case was arisen.

3. The O/C Belsor P.S., registered the case as Belsor P.S. case No.78/2015 u/s 447/341/325/323/294/506/354/34 I.P.C. and investigated the matter. On completion of investigation, police filed charge sheet against the

accused persons namely Mela Haloi and Dhan Haloi u/s 447/341/352/506/294/34 I.P.C.

4. During trial, the accused persons namely Mela Haloi and Dhan Haloi were allowed to go on bail. Relevant copies of the documents were furnished to them u/s 207 Cr.P.C. Upon perusal of materials on record and after hearing both sides, sufficient materials were found against the accused persons u/s 447/341/352/506/294/34 I.P.C. and contents of the charges were read over and explained to the accused persons to which, they pleaded not guilty and claimed to be tried.

5. Prosecution in support of the case examined two witnesses and declined to adduce further evidence. The examination of the accused person namely Dipjyoti Pathak u/s 313 of Cr.P.C. was dispensed with as no incriminating material was found against him. Defence declined to adduce evidence on his behalf.

6. This court has heard argument of both sides.

POINTS FOR DETERMINATION:

7. Upon hearing and perusal of the record, this court has framed the following points for determination.

- (i) *Whether the accused persons namely Mela Haloi and Dhan Haloi on 14.04.2015 at about 3:30 p.m., at village Kakaya under Belsor P.S., in furtherance of their common intention committed criminal trespass by entering illegally into the courtyard of informant Chandan Haloi and intent to intimidate, insult and annoy him or to commit any offence and thereby committed an offence under section 447,34 of I.P.C.?*
- (ii) *Whether the accused persons namely Mela Haloi and Dhan Haloi on the same date, time and place in furtherance of their common intention wrongfully restrained the informant and that you thereby committed an offence punishable under section 341,34 of IPC ?*
- (iii) *Whether the accused persons namely Mela Haloi and Dhan Haloi on the same date, time and place in furtherance of their common intention assaulted or used criminal force to informant's wife Sri Anima Haloi and his daughter Sri Jumi Haloi and thereby committed an offence punishable u/s 352,34 of I.P.C.?*

- (iv) *Whether the accused person namely Dipjyoti Pathak on the same day, time and place committed criminal intimidation by threatening informant Smti. Kabita Kalita with dire consequence and thereby committed an offence punishable u/s 506 of I.P.C.?*
- (v) *Whether on the aforesaid date, time and place the accused persons in furtherance of their common intention had uttered or used obscene words to the informant and his family members to the annoyance of other and thereby committed an offence punishable u/s 294,34 of I.P.C.?*

DISCUSSION, DECISION, AND REASONS THERE OF:

8. This court has carefully gone through the entire evidence-on-record and materials placed before this court.

9. The prosecution has examined two witnesses namely, Dilip Nath and Chandan Haloi, informant of the case.

10. PW1 Dilip Nath deposed in his examination-in-chief that he knows the informant and the accused persons but he does not know anything about the incident.

Cross-examination declined by defence.

11. P.W.2 Sri Chandan Haloi deposed in his examination-in-chief that he is the informant of the case and he knows the accused persons. They are his nephews. The occurrence took place in the year 2015 when he had an misunderstanding with the accused persons on a partition related matter and out of anger he filed an ejahar but presently he had good relation with them and as they are family members he does not want to proceed with the case and he has no objection if the accused persons are acquitted from this case. Ext.P-1/PW-2 is the ejahar and Ext.P-1(1)/PW-2 is his signature.

12. Cross-examination declined by defence.

13. On perusal of the evidence-on-record, it is seen that there is no deposition which could suggest that the accused persons had committed any kind of

criminal trespass by entering illegally into the compound of the informant with an intent to commit an offence or wrongfully restrained the informant or assaulted or used criminal force to informant's wife Sri Anima Haloi and his daughter Sri Jumi Haloi or threatening informant Smti. Kabita Kalita with dire consequence or uttered obscene words to the informant and his family members. No single instance of above mentioned crimes have been mentioned by PW1 and PW2 in their evidence deposed in court. It appears that due to partition related matters a misunderstanding took place between the accused persons and the informant and out of anger he filed an ejahar against the accused persons. However, presently he has good relation with the accused persons and as they are family members, he does not want to proceed with the case and he has no objection if the accused persons are acquitted from this case. Ext.P-1/PW-1 is the ejahar and Ext.P-1(1)/PW-1 is his signature.

14. Therefore, the witnesses examined by prosecution side, has not supported the prosecution case. In result, there are no incriminating material found against the present accused persons.

15. This court therefore, finds that the prosecution has failed to establish the guilt of the accused persons beyond reasonable doubt. As such, accused persons namely Mela Haloi and Dhan Haloi are not held guilty of the offences punishable u/s 447/341/352/506/294/34 I.P.C. and accordingly, they are acquitted and set at liberty forthwith.

16. The bail bonds furnished on behalf of the accused persons shall remain in force for a further period of six months.

17. Seized articles if any, are to be disposed of as per law in due course.

18. Given under my hand and seal of this court on this 29th day of September, 2022.

SMTI NADIA REHMAN, LLM, AJS
J. M. 1ST CLASS, NALBARI.

APPENDIX

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	Dilip Nath	Other witness
PW-2	Chandan Haloi	Informant

B. Defence Witnesses, if any: Nil

C. Court Witnesses, if any : Nil

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Ext.P-1/PW-1	Ejahaar
2	Ext.P-1(1)/PW-1	Signature of PW-2

B. Defence : Nil

C. Court Exhibits: Nil

D. Material Objects: Nil

Smti. Nadia Rehman, LLM, AJS

J. M. 1ST CLASS, NALBARI.