

**IN THE COURT OF Munsiff No. 1 cum JMFC,
Nalbari**

Present: Dr. Nabanita Kalita

(Date of Judgment)
26.09.2022

PRC Case No. 722/2019

(Details of FIR/Crime and Police Station)

COMPLAINANT:	STATE OF Assam
REPRESENTED BY	SMTI. PRITIMA DEVI, APP.
ACCUSED	1) NUR MAHAMMAD ALI
REPRESENTED BY	NABA KR. DUTTA, ADVOCATE

Date of Offence	12.02.2018
Date of FIR	12.02.2018
Date of Charge sheet	28.02.2018
Date of offence explanation	03.06.2022
Date of commencement of evidence	23.09.2022
Date on which judgment is reserved	NIL
Date of Judgment	26.09.2022
Date of the Sentencing Order, if any	NIL

Accused Details:

Rank of the Accused	Name of Accused	Date of Arrest	Date 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	Nur Mahammad Ali	Not mentioned	Not mentioned	341/323/506 IPC	Acquitted	N/A	N/A

JUDGMENT

1. The case of the prosecution in a nutshell is that on 12.2.2018, at about 7 am, while informant and her husband Kiyamat Ali along with her father Ramij Ali were going to Pamghar Kahikuchi, in the courtyard of Samser Ali of Kahikuchi, the accused persons resisted their route and accused Nur Mahammad injured striking on the left feet with a bamboo stick and injured right hand of the informant. It is alleged that on being resisted on the said act, accused persons besides causing injuries on nose and chest by fist blow of her husband, accused persons torn the jacket of the husband of the informant and threatened. Hence, this case.

2. On receipt of the FIR, police of Nalbari PS registered the same as Nalbari PS Case no. 79/18

under Section 341/323/325/427/506/34 IPC against the accused persons and conducted investigation into the matter.

3. On completion of the investigation, the police submitted Charge sheet against the accused persons namely Nur Mahammad Ali under Section 341/323/506 IPC.

4. The accused persons entered their appearance in response to the process issued. Copies of relevant documents were furnished to the accused persons in accordance with section 207 Criminal Procedure Code.

5. Particulars of offence under section 341/323/506 of IPC were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

6. During trial, the prosecution examined 1(one) witness. Thereafter, on prayer of the Id. APP, prosecution evidence has been closed as according to the opinion of the Id. APP calling other witnesses will not improve the case.

7. The statement of defence of the accused person has been dispensed with due to lack of incriminating materials against him. Defence declined to adduce DW evidence.

POINTS FOR DETERMINATION

i) Whether the accused person on 12.02.2018 at about 7 p.m. wrongfully restrained the informant

and her husband Kiyamat Ali and thereby committed an offence punishable under section 341 IPC?

ii) Whether the accused person on same date and time voluntarily caused hurt to the informant and thereby committed an offence punishable under section 323 IPC?

iv) Whether the accused person on same date and time criminally intimidated the informant and her husband and thereby committed an offence punishable under section 506 IPC?

8. I have heard the learned counsel for both sides and have gone through the case record.

EVIDENCE ON RECORD

9. PW 1 Naju Begum is the informant of this case. She deposed in her examination-in-chief that she is the informant of this case. Accused Nur Mahammad is her brother, who is son of her uncle. PW 1 stated that the occurrence took place in the year 2018. On the date of occurrence, she and her husband were going to farm situated at Kahikuchi. While going they met Nur Mahammad. PW 1 stated that conflict of opinion took place in connection with Nur as regards to abusing his brother Samsul. PW 1 stated that verbal altercation took place with Nur regarding that matter and she lodged the case due to misunderstanding. Now they have compromised the matter. They are staying affectionately as he is

her brother. PW 1 further stated that now she has no allegation against the accused. She does not want to proceed with the case. Ext. P1/PW1 is ejahar. Ext. P1(1)/PW 1 is her signature.

10. During cross examination, PW 1 stated that she has no objection, if accused person is acquitted.

DISCUSSION, DECISION AND REASONS THEREOF

11. After going through the evidence of PW 1, it transpires that PW 1 derailed from the allegations set forth in the FIR. From the deposition of the PW 1 it is seen that she has stated nothing incriminating against the accused in her evidence rather she deposed that he lodged the FIR due to misunderstanding as she had conflict of opinion with the accused person over some matter. PW 1 also confirmed that she has compromised the matter with the accused and now staying affectionately with the accused persons as he is her brother. She also expressed her unwillingness to proceed with the case as she has no allegation against the accused person. Moreover, PW1 in her cross examination has stated that she has no objection if the accused person is acquitted in this case. Since the PW 1, being the most vital witness did not implicate the accused person to the alleged crime, I do not find any force in the prosecution case to hold the accused person guilty of the alleged crime.

14. Now, it is the burden of the prosecution to establish the guilt of the accused person. From the evidence of the prosecution witness, it appears that the witness has not adduced any evidence to hold the accused person guilty under the alleged sections of IPC. Due to insufficient evidence on the part of the prosecution side, it is a fit case in my view to acquit the accused from the charges levelled against him. Hence, the accused person deserves acquittal/

15. Situated thus, it is found that the prosecution has failed to implicate the accused person Nur Mahammad Ali of any offence u/s 341/323/506 of IPC. As such, the points for determination are answered in negative and in favour of the accused person.

ORDER

In view of the discussion made above and the decisions reached in the foregoing points for determination, it is held that the prosecution failed to prove beyond reasonable doubt that the accused person had committed the offence under Section 341/323/506 IPC. As such, the accused person namely Nur Mahammad Ali is acquitted of the charge under Section 341/323/506 IPC and set at liberty forthwith.

The bail bonds of the accused person and his surety shall remain in force for a period of six months from today in compliance with section 437(A) Criminal Procedure Code.

Case is disposed of on contest.

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

(DR. NABANITA KALITA)
Judicial Magistrate, 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)
PW1	Naju Begum	Informant

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1	NIL	N/A

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW1	NIL	N/A

**LIST OF PROSECUTION/ DEFENCE /
COURT EXIBITS**

A. Prosecution:

Sr. No	Exhibit Number	Description
1	P.Ext-1/PW1	Ejahaar
2	P.Ext-1 ₁ /PW1	Signature of PW 1

B. Defence:

Sr. No	Exhibit Number	Description
1	Exhibit D1/ DW1	NIL

C. Court Exhibits:

Sr. No	Exhibit Number	Description
1	Exhibit C1/ CW1	NIL

D. Material Objects:

Sr. No	Exhibit Number	Description
1	MO1	NIL

DR. NABANITA KALITA)
Judicial Magistrate 1st Class,
Nalbari.