

THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, DIBRUGARH

G.R. CASE NO.- 3254/2018

U/S 341/323 OF THE IPC

STATE

VS.

SIBA MURA

S/O SRI BHARAT MURA

R/O SALMARI TEA ESTATE, KHER LINE

P.S. TINGKHONG

DISTT. DIBRUGARH

PRESENT:- KAUSHIK KAMAL BARUAH
JUDICIAL MAGISTRATE FIRST CLASS
AT DIBRUGARH

APPEARANCES:- SMT. LAKHIMI MOHAN.....FOR STATE

SRI DILIP CHETRI.....FOR ACCUSED

DATE OF EVIDENCE:- 23/04/19.

DATE OF ARGUMENT:- 07/05/19.

DATE OF JUDGMENT:- 07/05/19.

JUDGMENT

1. Accused Siba Mura stood trial for offences punishable under sections 341/323 of the Indian penal Code, 1860 (the IPC for short).
2. Material facts of the case as appears from the contents of the First Information Report (FIR for short) are as follows:- that, on 02/09/18 at about 08:00 PM, when the informant, Sajan Praja, was on his way to his elder brother's house, above named accused accosted him near Salmari TE and manhandled him with a dao. As a result, the informant sustained severe injuries on his right shoulder and chest.
3. Therefore, on 03/09/18, the informant lodged a written FIR before the Officer-in-Charge of Tingkhong Police Station which was registered and numbered as Tingkhong P.S. Case No.165/2018 under sections 341/326 of the IPC. During the course of investigation, the investigating officer visited the place of occurrence, recorded the statements of witnesses under

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Section 161 of the Code of Criminal Procedure, 1973 (the Cr.P.C. for short), collected medical report of the victim, arrested the accused and forwarded him to the concerned Area Magistrate for necessary action. The learned Area Magistrate was pleased to forward the accused to judicial custody.

4. After completing the investigation, the Investigating Officer submitted charge-sheet to prosecute the accused for offences under sections 341/323 of the IPC. In the meantime the accused was allowed to go on bail.
5. Court processes were issued and on his appearance the accused was allowed to go on bail. Copy of relevant documents was furnished to the accused person. Particulars of the offences under sections 341/323 of the IPC were explained to the accused person to which he pleaded not guilty and claimed to be tried.
6. Prosecution examined two witnesses and closed evidence. Examination of the accused under section 313 of the Cr.P.C. was dispensed with as nothing was deposed against him.
7. Heard arguments advanced by learned Assistant Public Prosecutor and learned defence counsel.

POINTS FOR DETERMINATION

- a) Whether the accused, on 02/09/18 at about 08:00 PM near Salmari TE within Tingkhong PS, wrongfully restrained Sajan Praja?
- b) Whether the accused on the same day, time and place voluntarily caused hurt to said Sajan Praja?

DISCUSSION, DECISION AND REASONS THEREON

8. In order to establish the allegations against the accused person, prosecution examined Sajan Praja and Ramen Praja as PW1, PW2 respectively and closed evidence.
9. Among the witnesses examined by the prosecution, PW1 was the informant and also the victim. In his evidence he deposed that on 02/09/18 he had an argument with the accused on a trivial matter and misunderstanding the fact situation he filed FIR against him. Ext.1 is the FIR and Ext.1(1) is his signature thereon. Defence declined to cross-examine him.

10. PW2 deposed that the informant is his elder brother and that the accused is his neighbor. In his ocular evidence he had not attributed any overt act on the accused rather stated that his brother filed FIR against the accused solely on a misunderstanding of fact. Defence declined to cross-examine him as well.
11. Therefore, from the evidence available on record it becomes apparently clear that the criminal law was set into motion by the informant solely upon a misunderstanding of fact on his part. He being the victim had himself not attributed any overt act upon the accused.
12. In a nutshell, prosecution has no evidence worth the name against accused Siba Mura for the indictment.

ORDER

13. As such, from the observation and discussion done hereinbefore, I arrive at the conclusion that the prosecution had failed to establish the allegations against accused Siba Mura for the offences under sections 341/323 of the IPC in all respects. As such, the accused is acquitted of the offences under the sections of law indicated above.
14. Accused person be set at liberty forthwith. Bail bond of the accused person stands cancelled. The accused person may obtain copy of the judgment but not without payment.
15. Instant case is disposed of on contest.
Given under my hand and Seal of the Court this 7th day of May, 2019.
Typed and corrected by me and every page bears my signature.

Judicial Magistrate First Class,
Dibrugarh.

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APPENDIX

- 1) Prosecution exhibits:-
Ext.1:- FIR
Ext.1(1):- Signature of Sajan Praja
- 2) Prosecution witnesses:-
PW1:- Sajan Praja
PW2:- Ramen Praja
- 3) Defence exhibits.- NIL
- 4) Defence witnesses.- NONE

Judicial Magistrate First Class,
Dibrugarh.