

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,  
DIBRUGARH.**

**Ref** : G.R. 4369/2018  
U/S 341/323 OF IPC.

State of Assam

**-Vs-**

Shri. Papalu Ahmed..... Accused

**PRESENT :** A.K. BARUAH, LL.M. AJS.  
Chief Judicial Magistrate,  
Dibrugarh.

**APPEARANCE :**

Advocate for the Prosecution : MissD.Gogoi,Asstt. PP  
Advocate for the Defence : Md. Imdadul Haque.  
Date of evidence : 24-04-2019.  
Date of argument : 24-04-2019  
Date of judgement : 03-05-2019.

**J U D G M E N T**

- 1.** The case of the prosecution in brief, is that on 20.11.2018, at about 4.30 PM, when the complainant namely Santosh Kumar Sah, was standing in front of his shop, the accused person namely Papalu Ahmed, without any reason assaulted the complainant with a scissor causing grievous injury to his person. The complainant namely Shri. Santosh Kumar Sah lodged one FIR, in the Tengakhat Police Station regarding the incident.
- 2.** On the basis of the FIR lodged by the complainant , a case, being Tengakhat P.S Case No. 94/2018, was registered u/s 326 IPC. Police conducted investigation into the case and filed charge sheet against the accused person namely Sri. Papalu Ahmed u/s 341/323 IPC .

3. The accused person appeared in this case. Copies were furnished to him u/s 207 Cr PC. The particulars of the offences u/s 341/323 IPC were explained to the accused person, to which he pleaded not guilty and claimed to be tried.
4. During the trial of the case, the prosecution side examined 5(Five) P.Ws in this case. The defence plea is of total denial. The defence side did not adduce any evidence. The recording of statement of the accused u/s 313 CrPC was dispensed with.
5. I have heard the learned counsel for the accused and learned Asst. P.P for the State. Having heard both sides and after perusing the materials on record, the following points for determination are framed for the just decision of the case :-

6. **POINT FOR DETERMINATION :-**

- i. Whether on 20-11-18 at about 04:30 P.M, the accused voluntarily caused hurt to the complainant namely Santosh Kr. Sah?
- ii. Whether the accused wrongfully restrained the complainant on the road on above mentioned date and time?

**DECISION AND REASON FOR THE DECISION :-**

7. P.W.1 Wahid Ali deposed in his evidence that he knows the complainant as well as the accused person of this case. Due to some misunderstanding, the complainant lodged this case against the accused person. He has no allegation against the accused.  
In cross examination ,PW1 has deposed that he has no objection if the accused person is acquitted from the case
8. P.W.2 Bijoy Sah deposed in his evidence that he knows the complainant as well as the accused person of this case. Due to some misunderstanding, the complainant

lodged this case against the accused person. He has no allegation against the accused.

In cross examination, PW2 has deposed that he has no objection if the accused person is acquitted from the case.

- 9.** P.W.3 Farhan Nur Raheem deposed in his evidence that he knows the complainant as well as the accused person of this case. Due to some misunderstanding, the complainant lodged this case against the accused person. He has no allegation against the accused.

In cross examination, PW3 has deposed that he has no objection if the accused person is acquitted from the case.

- 10.** P.W.4 Santosh Kr Sah\_deposed in his evidence that he is the complainant of the case. Due to some misunderstanding, PW4 lodged this case against the accused person. He has no allegation against the accused. PW4 identified the FIR as Ext1.

**In cross examination** ,PW4 has deposed that he has no objection if the accused person is acquitted from the case and he does not know what was written in Ext1.

- 11.** P.W.5 Vineet Sharma deposed in his evidence that he knows both the parties of this case. His father namely Ram Naresh Sharma received summon in this case as witness, but he cannot appear for his evidence as he went to Patna, Bihar for his treatment. PW5 does not know the facts of the case.

- 12.** From the above discussion, I found no material against the accused. PW's have not implicated the accused. PW4 being the complainant cum victim of this case did not implicate the accused by stating that due to some misunderstanding, he lodged this case. Hence, from the evidence on record, I found no material against the accused. Hence, I hold the points for determination in the negative.

- 13.** In the result, I have not found the accused guilty in this case. Hence, I acquit him from the charge u/s 341/323 IPC and set him at liberty forthwith. Considering the evidence of the complainant cum victim, the case is not referred for victim compensation.

Given under my hand and seal of this court on this 3rd day of May, 2019.

(A K Baruah)  
Chief Judicial Magistrate,  
Dibrugarh.

**Appendix**

Prosecution Witness :-

PW1 :- Wahid Ali  
PW2 :- Bijoy Shah  
PW3 :- Farhan Nur Rahim  
PW4 :- Santosh Kr. Shah  
PW5 :- Binit Kr. Sharma

Defence witness :-

None

Exhibits :-

Prosecution exhibits :-

Exhibit1 : FIR.

Defence exhibits :-

None

Court witness :- None.

Court exhibits :- None.

**CJM, Dibrugarh**