

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
DIBRUGARH
GR 824/14
U/S 341/325/379 IPC**

**STATE
Vs**

**SRI. DHARMENDRA SAH
S/O SRI. NATHUNI SAH
R/O GRAHAM BAZAR,
PS DIBRUGARH**

Present : Smti. Talat Nasrat Jabin, AJS
Ld. Advocate present
For the prosecution : Sri. L. Deori.
For the defence : Sri. Bikash Agarwalla
Evidence recorded on : 10/07/18, 24/04/19
Final argument heard on : 26/04/19
Date of judgement : 04/05/19

JUDGEMENT

1. The brief of the prosecution case is that the accused person assaulted the informant without any reason and obstructed him from moving in the direction in which he was authorised to move and beat him mercilessly due to which he sustained fracture on his right leg. The accused person also snatched away rupees 500 and a mobile phone from the informant and abused him with filthy language followed by threatening him with dire consequence. Hence this case.

2. On receipt of the information, the OC of Dibrugarh Police Station received the FIR and registered it as Dibrugarh P.S case number 260/14, U/S 341/323/379/34 IPC and forwarded the FIR for investigation. The investigating officer in the course of investigation, visited the place of occurrence, examined the witnesses, prepared the sketch map and the accused person was arrested and allowed to go on police bail. On the conclusion of investigation, police filed charge-sheet U/S 341/325 IPC.

3. On receiving the case for disposal, summons was issued to the accused person. On appearance of the accused person, copies of the relevant document was furnished to the accused person in compliance with S.207 Crpc. After the consideration of materials on record, the particulars of offence U/S 341/325/379 IPC was read over and explained to the accused person Sri. Dharmendra Sah to which he pleaded not guilty and claimed to be tried.

4. Points of determination:

- I. Whether the accused person restrained the informant and obstructed him from moving into the direction in which he was legally entitled to move and thereby committed offence punishable under section 341 IPC?
- II. Whether the accused person hit the informant due to which he sustained fracture on his right leg and thereby committed offence punishable under section 325 IPC?
- III. Whether the accused person snatched away rupees 500 and a mobile phone from the pocket of the informant and thereby committed offence punishable under section 379 IPC.

5. THE TRIAL

During the trial prosecution examined as many as 2 (two) witness and exhibited 1(one) number of document (shown in the annexure appended therein below). The defence have fully utilised the opportunity to cross examine the prosecution witness. Considering the testimony of the prosecution witnesses the statement of the accused persons under section 313 CrPC was recorded and tagged with the record. The defence side have declined to adduce any evidence in defence. After closure of evidence, I have heard the final arguments of the learned advocates of both the sides and thereupon have reached the following decision.

6. DISCUSSION, DECISION AND REASONS THEREOF:

PW1, Sri. Budhu Kapari in his evidence stated that he is the informant to the case. The incident took place 3 years before adducing of his evidence. On the day of the incident the informant was about to leave for the market. At that moment the accused person Sri. Dharmendra Sah without any reason asked an amount of rupees 150 to 200 which the informant refused. The accused person push the informant. Due to which his innerwear (Genji) of the informant was torn. He also sustained injury on his leg. When the accused person pushed him he fell down on the ground due to which his knee got fractured. The informant went to the police and filed this instant case.

PW1 in the cross examination stated that the accused person is his neighbour and he and the accused person sell puchka. He stated that he did not know about the content of the FIR. He further stated that the police never visited his house for investigation. He further stated that he went to the police station on a riksha after the incident. He stated that in his statement before the police he did not tell the police about the accused person asking him rupees 100 to 150 and the fact that the accused person pushed him.

PW2, Sri. Bapi Sengupta in his evidence stated that he has no knowledge about the incident.

The prosecution side examined the informant and another independent witness. The independent witness has no knowledge about the incident. The entire prosecution case is based on the evidence of the informant who is also the victim of the case. The informant examined as PW1 in his evidence stated that the accused person asked some money from him and when he refuse to give the same the accused person pushed him due to which he fell down and sustained injury on his leg. But the informant in the cross examination has stated that he has no knowledge about the content of the FIR. On perusal of the FIR it also appears that there is no corroboration of the facts stated in the FIR and evidence of PW1. Thus the evidence of PW1 is not enough grounded to be taken as substantial piece to establish the case against the accused person.

Thus the prosecution side has failed to prove the case under section 341/325/379 IPC against the accused person Sri. Dharmendra Sah.

ORDER

The accused person Sri. Dharmendra Sah is acquitted under section 341/325/379 IPC and set at liberty henceforth.

The bail bond of the accused persons shall extend to another six months as per section 437 A Crpc.

Given under my hand & seal of this court and delivered in the open Court on this 4th of May, 2019.

Talat Nasrat Jabin

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Judicial magistrate first class, Dibrugarh

Appendix:

List of prosecution witnesses

PW1: SRI. BUDHU KAPARI.

PW2: SRI. BAPI SENGUPTA.

List of defence witnesses:

NIL

Exhibits of prosecution side

NIL

Exhibits of defence side

NIL

Signature

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