

IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS :
DIBRUGARH

PRESENT : Smti. Zohra Yasmin, A.J.S.,

Judicial Magistrate First Class,

Dibrugarh

Advocate for the Prosecution : Sri. M.Dutta, A.P.P.

Advocate for the accused : Sri. A. Chetry, Sri. D. Baruah

G.R. Case No. 3992 of 2018 (P.R.C. No. 158 of 2020)

State of Assam

-VS-

Sri. Padmeswar Konch @ Goda.....

Sri. Nitul Boruah.....

Sri. Bhaskar Boruah.....Accused persons

Under Sections 448/323/506/34 I.P.C.

Offence explained on14.02.2020

Evidence recorded on 14.12.2021

Arguments heard on 14.12.2021

Judgment delivered on 21.12.2021

J U D G M E N T

- 1) The prosecution story in brief is that on 23.10.2018 an Ejahar was lodged by the informant Sri. Abhijit Changmai alleging inter alia that on 23.10.2018, at Morning 8.45PM, the accused persons Sri. Bhaskar Baruah, Sri. Nitul Baruah and Sri. Padmeswar Konch @ Goda entered the Sankardev Sishu Niketan School and assaulted him as a result of which he sustained injuries and threatened him of dire consequences. Hence, the Ejahar was lodged by the informant.
- 2) On receipt of the Ejahar, Tingkhong P.S. Case No.203/2018 was registered and after the investigation police submitted the charge-sheet against the accused persons Sri. Bhaskar Baruah, Sri. Nitul Baruah and Sri. Padmeswar Konch @ Goda under Sections 448/323/506/34 of Indian Penal Code before the Learned Chief Judicial Magistrate, Dibrugarh.
- 3) On 14.02.2020 the accused persons appeared before the court upon receiving summons, and on finding prima facie materials against the accused persons particulars of offences under Sections 448/323/506/34 were explained to the accused persons to which they pleaded not guilty and claimed to be tried.
- 4) In support of the case, the prosecution has examined one witness.
 - 1) After the prosecution evidence was over, the accused persons were examined under Section 313 Cr.P.C wherein they had denied the prosecution case and also declined to adduce any defence evidence.
- 5) I have heard the arguments of both sides.

- 6) Considering the materials on record and after hearing the arguments of both sides, the following points are taken as points for determination-

POINTS FOR DETERMINATION-

- i) Whether the accused persons on 23.10.2018 at 8:45 in the morning, in furtherance of their common intention, entered the Sankardev Shishu Niketan School and unlawfully with intent to commit an offence and thereby committed an offence punishable under Section 448/34 IPC?
- ii) Whether the accused persons on 23.10.2018 at 8.45 in the morning, in furtherance of their common intention, voluntarily caused hurt to the informant Sri. Abhijit Changmai and thereby committed an offence punishable under Section 323/34 IPC?
- iii) Whether the accused persons had on the same date, time and place in furtherance of their common intention, criminally intimidate the informant by threatening her with dire consequences and thereby liable to be punished under Section 506/34 IPC?

DISCUSSION, DECISION AND REASONS FOR DECISION:

- 7) All the points for determination are taken together for the purpose of brevity and because they are closely connected to each other.
- 8) PW1, Sri. Abhijit Changmai is the informant in the case. He has deposed in his evidence-in-chief that in the year 2018 when morning prayer was going on in his school Sankar dev Shishu Niketan, Rajgarh, the accused person entered the school and in between the conversation between PW1 and the accused persons

an altercation took place and due to some misunderstanding PW1 lodged this case. Exhibit 1 is the ejahar and Exhibit 1(1) is his signature.

9) PW1 in his cross examination has stated that he does not want to proceed with the case.

10) From the evidence of the prosecution witness, it is seen that the informant/victim of the has stated anything incriminating against the accused persons. The prime witness of the case has deposed that on the date of occurrence an altercation took place between the accused persons and the informant.

11) In a criminal case, the prosecution must prove the guilt of the accused beyond all reasonable doubt. In this instant case, the prosecution has been unable to prove the guilt of the accused persons beyond reasonable doubt. As a result of which accused persons Sri. Bhaskar Baruah, Sri. Nitul Baruah and Sri. Padmeswar Konch @ Goda are acquitted from the offences under Sections 448/323/506/34 IPC in this case and they are set at liberty forthwith.

ORDER

12) In this instant case, the prosecution has been unable to prove the guilt of the accused persons beyond reasonable doubt. The prosecution has failed to prove that the accused persons namely, Sri. Bhaskar Baruah, Sri. Nitul Baruah and Sri. Padmeswar Konch @ Goda have committed the offences under Sections 448/323/506/IPC; as such the accused persons Sri. Bhaskar Baruah, Sri. Nitul Baruah and Sri. Padmeswar Konch @ Goda are acquitted from the offences under Section 448/323/506/34 IPC in this case and they are set at liberty forthwith.

13) The bail bond of the accused person is extended for six months from today as per the provisions of Section 437A CrPC.

14) The case is disposed of on contest without cost.

Given under my hand and seal of this court on this 21st day of December, 2021 at Dibrugarh.

SMTI. ZOHRA YASMIN
JUDICIAL MAGISTRATE FIRST CLASS, DIBRUGARH

APPENDIX

PROSECUTION WITNESSES:

- 1) PW1 Sri. Abhijit Changmai (Informant)

PROSECUTION EXHIBITS:

- 1) Exhibit 1- Ejahar
- 2) Exhibit 1(1) - Signature of the informant.

DEFENCE WITNESSES:

None

DEFENCE EXHIBITS:

NIL

SMTI. ZOHRA YASMIN
JUDICIAL MAGISTRATE FIRST CLASS, DIBRUGARH