

G.R. CASE NO.- 405/2019

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. U. Saha

G.R. Case No. 405 of 2019 (P.R.C. No. 666/2020)

State of Assam

-VS-

Sri. Benjamin Majhi

Sri. Horendra Lohar

Smti. Moni Karmakara

Smti. Naina Lohar Accused persons.

Under Section 325/34 of I.P.C.

Charge framed on 20.02.2021

Evidence recorded on 06.04.2021, 08.12.2021

Arguments heard on 08.12.2021

Judgment delivered on 22.12.2021

J U D G M E N T

- 1) The prosecution story in brief is that on 31.01.2019 an Ejahar was lodged by the informant Smti. Amachi Nayak alleging that on 17.01.2019 Sri Rohit Karmakar eloped with her daughter Smt. Lakhi Nayak. When on 31.01.2019 the son of the informant Sri Azad Nayak went to the house of the accused persons to meet his sister, the accused persons caused injury to her son with a doa as a result of which he had to undergo treatment at Romai Hospital. Hence, the Ejahar was lodged by the informant.
- 2) On receipt of the Ejahar, Lahowal P.S. Case No. 12/2019 was registered and after the investigation police submitted the charge-sheet being charge-sheet no. 34/2019, dated 31.05.2019 against the accused person Sri. Benjamin Majhi, Sri. Horendra Lohar, Smti. Moni Karmakar and Smti. Naina Lohar under Section 325/34 of Indian Penal Code before the Learned Chief Judicial Magistrate, Dibrugarh.
- 3) On 20.02.2021, the accused persons appeared before the court and on finding sufficient materials against the accused persons for offences under Sections 325/34 IPC, formal charge under the aforesaid section was framed against the accused person to which they pleaded not guilty and claimed to be tried.
- 4) In support of the case, the prosecution has examined three witnesses.

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- 5) After the evidence of the informant/victim of the case and the informant and one other PW the evidence of the other prosecution witnesses has been dispensed and the accused person was examined under section 313 CrPC and their plea is of total denial.
- 6) I have heard the arguments of both sides.
- 7) 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 31.01.2019, in furtherance of their common intention, caused grievous hurt to the son of the informant Sri Azad Nayak and thereby committed an offence punishable under Section 325/34 IPC ?

DISCUSSION, DECISION AND REASONS FOR DECISION:

- 8) Let me discuss the evidence of the prosecution witnesses and try to arrive at a definite finding as regards the point for determination.
- 9) PW 1 Sri. Rohit Karmakar has deposed in his evidence-in-chief that he knows the accused persons. on the date of occurrence an altercation took place between both the parties with because he eloped with the daughter of the informant.

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- 10) In his cross-examination, at present both the families have cordial relationship.
- 11) PW2 is Smti. Amachi Nayak is the informant of the case. She has deposed in her evidence-in-chief that she knows the accused person very well. On the date of occurrence, her son Sri Azad Nayak went to meet his sister at the house of the accused persons and an altercation took place between him and the accused person. She has further deposed that her daughter is the daughter-in-law of the accused persons. exhibit 1 is the Ejahar, Exhibit 1(1) is her signature.
- 12) In her cross-examination, she stated that she no longer wants to proceed with the case.
- 13) PW3 is Sri. Azad Nayak. He has deposed in his evidence-in-chief that informant is his mother. On the date of occurrence, he went to meet his sister at the house of the accused persons and relating to a family matter an altercation took place between him and the accused persons.
- 14) In his cross-examination, he stated that due to misunderstanding the case has been lodged and since the accused persons are his relatives he does not want to proceed with the case.
- 15) During the evidence of these PW's none of the prosecution has deposed anything incriminating against the accused persons. Hence, this court finds itself difficult that no such essential elements of the above

mentioned section could be proved by the prosecution beyond reasonable doubt.

16) In the case of **V.D. Jhingan vs. State of Uttar Pradesh AIR 1966 SC 1762** the honorable Supreme Court has held that it is also the cardinal rule of our criminal jurisprudence that the burden in the web of proof of an offence would always lies upon the prosecution to prove all the facts constituting the ingredients beyond reasonable doubt. If there is any reasonable doubt, the accused is entitled to the benefit of the reasonable doubt.

17) In the light of the above discussion, it is held that the prosecution has failed to prove the guilt of the accused persons beyond all reasonable doubt under Sections 325/34 IPC. There is nothing incriminating to convict the accused person under the section brought against him. As a result of which accused persons Sri. Benjamin Majhi, Sri. Horendra Lohar, Smti. Moni Karmakar and Smti. Naina Lohar are acquitted from the offences under the above mentioned sections of law in this case and they are set at liberty forthwith.

ORDER

- 18) In the light of the above discussion, it is held that the prosecution has failed to prove the guilt of the accused beyond all reasonable doubt under Sections 325/34 of IPC. As a result of which accused person Sri. Benjamin Majhi, Sri. Horendra Lohar, Smti. Moni Karmakar and Smti. Naina Lohar are acquitted from the offences under the above mentioned sections of law in this case and they are set at liberty forthwith.
- 19) The bail bond of the accused persons are extended for six months from today as per the provisions of Section 437A CrPC.
- 20) The case is disposed of on contest without cost.

Given under my hand and seal of this court on this 22nd day of December, 2021 at Dibrugarh.

SMTI. ZOHRA YASMIN
JUDICIAL MAGISTRATE FIRST CLASS, DIBRUGARH

APPENDIX

PROSECUTION WITNESSES:

- 1) Sri. Rohit Karmakar
- 2) Smti. Amachi Nayak (informant)
- 3) Sri. Azad Nayak

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