

**::IN THE COURT OF CHIEF JUDICIAL MAGISTRATE::
::DIBRUGARH::**

Present: SMTI. MONALISSA DAS, CJM, DIBRUGARH

Dated: 30.04.2022

G.R. Case No. 2989/2015

Charge: u/s 143/341/149/325 IPC

Moran P.S. FIR No. 364 OF 2015

COMPLAINANT	STATE OF ASSAM
REPRESENTED BY	SMTI. GAYATRI PHUKAN, Addl. Public Prosecutor
ACCUSED	1. SRI GAKUL @ NAKUL DIHINGIA (A1) S/O SRI NOBIN DEHINGIA R/O: DIHINGIA GAON P.S. MORAN DIST. DIBRUGARH 2. SRI JITUL DIHINGIA (A2) S/O SRI NOBIN DIHINGIA R/O: DIHINGIA GAON P.S. MORAN DIST. DIBRUGARH



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	3. SRI PITI DIHINGIA (A3) S/O SRI MANIK DIHINGIA R/O: DIHINGIA GAON P.S. MORAN DIST. DIBRUGARH 4. SRI DHANTO BORGHAIN (A4) S/O SRI KARTIK BORGHAIN R/O: DIHINGIA GAON P.S. MORAN DIST. DIBRUGARH
REPRESENTED BY	SRI DIBOKH GOGOI Ld. Advocate for the defence



Date of Offence	20.10.2015
Date of FIR	21.10.2015
Date of Charge sheet	31.10.2020
Date of Framing of Charges	30.03.2021
Date of Commencement of evidence	30.04.2022
Date on which judgment is reserved	30.04.2022
Date of Judgment	30.04.2022
Date of Sentencing Order, if any	None

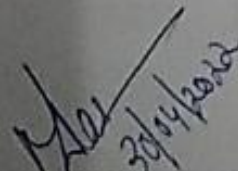
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Rank of the Accused	Name of Accused	Date of arrest	Date Released on bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of detention Undergone during Trial for purposed of Sec. 428 Cr.P.C.
A1	SRI GAKUL @ NAKUL DIHINGIA	None	26.07.2016	143/341/149/325 IPC	Acquitted	N/A	None
A2	SRI JITUL DIHINGIA	None	26.07.2016	143/341/149/325 IPC	Acquitted	N/A	None
A3	SRI PITI DIHINGIA	None	26.07.2016	143/341/149/325 IPC	Acquitted	N/A	None
A4	SRI DHANTO BORGHA IN	None	26.07.2016	143/341/149/325 IPC	Acquitted	N/A	None

J U D G M E N T

1. The case of the prosecution in brief is that the informant Sri Jiten Dihingia, lodged an Ejahar on 21.10.2015 at about 10:30 PM when the informant was returning after attending a Puja at the road of Nahoroni, the accused persons without any rhyme or reason hit him with a brick for which he sustained grievous injury. Hence this case.

2. On the basis of the FIR, lodged by the informant, O/C, Moran P.S. registered a case as Moran P.S case no. 364 of 2015 U/S 143/341/325 of IPC. ASI



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Premeswar Saikia conducted investigation of the case and submitted the case diary to SI Dharmeswar Buragohain who then filed charge-sheet against the accused persons namely Sri Gakul @ Nakul Dihingia, Sri Jitul Dihingia, Sri Piti Dihingia, Sri Dhanto Borgohain under sections 143/341/325 of IPC. The case against accused Sri Bitupon Dihingia was abated vide order dated 21.06.2019.

3. The accused persons appeared in this case. Copies were furnished to them under section 207 Cr PC. Considering the materials available on record and on hearing both the sides, charge under sections 143/341/149/325 of IPC was framed which is read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

4. During trial, prosecution side examined 1 (one) witness in this case. The Prosecution submitted for closure of the prosecution evidence. On submission, evidence was closed. As no material has been found against the accused persons, statement of accused recorded under section 313 of Cr PC was dispensed with.

5. I have heard the learned counsel for the accused persons and Learned Addl. P.P for the State. Having heard both the sides and after perusing the


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materials and evidence available on record, the following point arose for determination in this case.


6. Points for determination

I. Whether the accused persons on 20.10.2015 at about 10:30 PM in the night, were a member of an unlawful assembly and thereby committed an offence punishable U/s 143 of IPC?

II. Whether the accused on the same date, time and place in furtherance of common object of an unlawful assembly, wrongfully restrained the informant namely Sri Jiten Dihingia on the road and thereby committed an offence punishable U/s 341/149 of IPC?

III. Whether the accused on the same date, time and place in furtherance of common object of an unlawful assembly, voluntarily caused grievous hurt to the informant and thereby committed an offence punishable U/s 325/149 of IPC?

DECISIONS, DISCUSSIONS AND REASONS THEREOF.


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7. PW1 (Sri Jiten Dihingia) deposed in his evidence that he is the informant of this case. He knows the accused persons who are his co-villagers. About 7 years ago, he lodged this case against the accused. On the date of incident, he had some altercation with the accused during then many people gathered wherein in the crowd he fell down and got injured and out of misunderstanding, he filed the instant case against the accused. They have amicably settled the matter between themselves and he is not willing to proceed with the instant case anymore. Ext.P1/PW1 is the FIR. Ext.P1(1)/PW1 is his signature.

During cross-examination PW 1 has deposed that he does not have any objection if the accused gets acquitted.

8. From the above evidence, it is found that no material against the accused under section 143/341/149/325 of IPC exists. Informant as PW1 have not implicated the accused in his evidence. PW1 deposed that due to some misunderstanding between them they had an altercation and the matter has been settled between them and so, they do not want to proceed with the matter anymore.

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9. Considering therefore the quality of evidence of PW1 the nature of offences, this Court finds the accused persons not guilty and acquit them of offences under sections 143/341/149/325 of IPC.

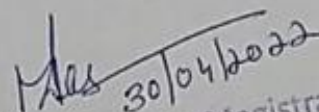
ORDER

10. In the light of the above discussions, the accused **SRI GAKUL DIHINGIA, SRI PITI DIHINGIA, SRI JITUL DIHINGIA, SRI DHANTO BORGOHAIN** are acquitted of offences U/s 143/341/149/325 of IPC as prosecution has failed to prove its case beyond reasonable doubt and set at liberty forthwith.

11. The bail bonds shall remain in force for 6 (six) months from today.

12. Judgment is prepared in separate sheets and tagged with the case record.

13. Given under my hand and seal of this court on this 30th day of April, 2022.


(Smt. Monalisa Das)
Chief Judicial Magistrate
Dibrugarh
Chief Judicial Magistrate,
Dibrugarh.

APPENDIX

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE
PW1	Jiten Dihingia	PROSECUTION WITNESS

B. Defence Witnesses, if any: NONE.

C. Court Witnesses, if any: NONE.

LIST PROSECUTION/DEFENCE/COURT EXHIBITS:

A. Prosecution:

Sl. No.	Exhibit Number	Description
1	Exhibit P1/PW1	FIR
2.	Exhibit P1(1)/PW1	Signature of PW 1

B. Defence: NONE.

C. Court Exhibits: NONE.

D. Material Objects: NONE.

[Signature]
30/04/2022
CJM, Dibrugarh
Chief Judicial Magistrate
Dibrugarh