

**IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE  
AT NORTH LAKHIMPUR**

G.R CASE NO: 1031 OF 2019  
PROSECUTOR: STATE OF ASSAM Vs  
ACCUSED: SRI MUKUT DUTTA

DISTRICT: NORTH LAKHIMPUR  
IN THE COURT OF ADDITIONAL CHIEF JUDICIAL  
MAGISTRATE, AT NORTH LAKHIMPUR

GR CASE NO: 3030/ 2019

U/S 188/417 of IPC

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: SRI GOMIYA DHAN

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P SRI R. DUTTA  
ADVOCATE FOR THE ACCUSED: LEARNED LEGAL AID COUNSEL  
SRI DIPAK POKHREL

CHARGE FRAMED ON : 21/01/2020  
EVIDENCE RECORDED ON : 02/03/2020

ARGUMENT HEARD ON : 02/03/2020  
JUDGMENT DELIVERED ON : 02/03/2020

**JUDGMENT**

**PROSECUTION'S CASE IN BRIEF**

1. Prosecution's case in brief as it reveals from the FIR is that on 23.11.2019, at about 4:30 P.M, while the informant Sri Dipak Dhan went to Pithaguri Bazar centre for shopping, at that time, accused Sri Gomiya Dhan wrongfully restrained the informant without any reason and then started an altercation with the informant. The accused persons then threatened to kill the informant and accused Sri Tonga Dhan hit the informant with a stick and accused Sri Gomiya Dhan stabbed the informant with a knife and thereby

caused injury on his chest, neck and back. The informant was then rescued by two local people. The informant became senseless after the occurrence and he was then taken to North Lakhimpur Civil Hospital for treatment, but as his injuries were severe so he was referred to Dibrugarh for better treatment. The informant subsequently lodged an FIR about the occurrence before the In-charge of Banderdewa Police Outpost.

2. On receipt of the F.I.R, the I/C of Banderdewa O.P forwarded the same to the O/C North Lakhimpur P.S who registered a case being numbered as North Lakhimpur P.S Case No. 601/19. After investigation, I.O of the case submitted charge sheet against accused Sri Gomiya Dhan for the offences punishable under section 341/506/326 of I.P.C. Copies of relevant documents were furnished to the accused person u/s 207 CrPC. Considering the relevant documents and hearing both the parties, charges are framed for the offences punishable u/s 341/506/326 of IPC. The charges are then read over and explained to the accused person to which he pleaded not guilty and stood to face the trial.

3. The prosecution in support of its case examined one witness whereas the accused did not examine any witness in support of his defence. The examination of the accused person u/s 313 CrPC was dispensed with finding no incriminating materials against him. I have heard the learned counsel for both the parties.

4. Upon hearing and on perusal of record I have framed the following points for determination-

**POINT FOR DETERMINATION:**

- (i) Whether the accused on 23.11.2019, at about 5 P.M, at Pithaguri Bazar centre, voluntarily obstructed informant Sri Dipak Dhan so as to prevent him from proceeding in any direction in which he had a right to proceed, and thereby committed an offence punishable u/s 341 of IPC?
- (ii) Whether the accused on 23.11.2019, at about 5 P.M, at Pithaguri Bazar centre, threatened informant Sri Dipak Dhan with injury to his person with the intent to cause alarm, and thereby committed an offence punishable u/s 506 of IPC?

- (iii) Whether the accused on 23.11.2019, at about 5 P.M, at Pithaguri Bazar centre, voluntarily stabbed informant Sri Dipak Dhan with a knife on his chest, neck and back, which is an instrument of cutting, and thereby committed an offence punishable u/s 326 of IPC?

**DISCUSSION OF EVIDENCE, DECISION AND REASONS THEREOF:**

**POINT NO.1, 2& 3**

5. For the sake of convenience, and as the point no.1, 2and3 are inter-connected, hence they are taken up herein together for discussion and decision. As regards the aforesaid points for determination, informant Dipak Dhan as PW-1 in his evidence-in-chief has stated that about three months back, at about 6:30 PM, while he was returning home and reached near Pithaguri Chariali at that time he saw that the accused person engaged in a quarrel with some other people. He then went there and sustained some injury by falling on the bamboo fencing while in the scuffle. Accordingly, he lodged an FIR against the accused in that respect. Ext-1 is that FIR in which he had put his signature. After lodging of that F.I.R, the aforesaid matter got settled amicably between both him and the accuseddue to which he is not willing to proceed with this case any further. During his cross-examination, PW-1 has stated that he has no objection if the accused is acquitted from this case.

6. At the time of argument, learned counsel for the defence submitted that the prosecution has failed to prove its case as alleged and hence the accused is liable to be acquitted from this case.

7. On perusal of the evidence deposed by PW-1 as narrated above, it is seen that at the time of occurrence, the PW1 allegedly saw the accused person engaged in a quarrel with some other and he/PW1 then went there and sustained injury by falling on the bamboo fencing while in the scuffle. There is nothing in the evidence of PW-1 which can show that theaccused voluntarily obstructed informant Sri Dipak Dhan, or threatened PW1 with injury to his person, or voluntarily stabbed informant Sri Dipak Dhan with a knife. The PW-1 has not stated anything about any such obstruction, threat

or hurt caused by the accused. In fact, the PW1 has justified his injury by stating that he sustained the same by falling on bamboo fence. Under such circumstances, it is evident that the witness examined by prosecution has not deposed any incriminating material against the accused and has failed to prove the case of prosecution as alleged in the FIR.

*DECISION: Point no.1, 2 & 3 are therefore decided in the negative and goes against the prosecution.*

**ORDER**

8. In view of the discussions made above and the decisions reached in the foregoing point for determination, it is held that the witness examined by prosecution has failed to prove that accused Sri Gomiya Dhan has committed the offence punishable under section 341/506/326 of IPC as alleged, and as such, the accused person is acquitted of the charges under section 341/506/326 of IPC and he be set at liberty forthwith.

The bail bond of the accused person shall remain in force for another six months from today.

This judgment is given under my hand, and seal of this court on this the 03<sup>rd</sup> day of March, 2020.

The case is disposed of on contest.

F.U. Choudhury  
Additional Chief Judicial Magistrate  
North Lakhimpur

**APPENDIX**

(A) **PROSECUTION EXHIBITS**

Exhibit.1 – F.I.R

(B) **DEFENCE EXHIBITS**

Nil

(C) **PROSECUTION WITNESSES**

P.W. 1 – Sri Dipak Dhan

(D) **DEFENCE WITNESSES**

Nil

F.U. Choudhury  
Additional Chief Judicial Magistrate  
North Lakhimpur