

**IN THE COURT OF JUDICIAL MAGISTRATE 1ST CLASS,
LAKHIMPUR, NORTH LAKHIMPUR.**

GR CASE NO.1814/2012
U/S 341/325 IPC.

PRESENT:

SMT. SWEETY BHUYAN
Judicial Magistrate 1st Class
Lakhimpur, North Lakhimpur.

PARTIES:

STATE OF ASSAM

Vs

Sri Dighola Das

..... **ACCUSED PERSON**

Appearance:

For the State: MR. JANGKI DOLEY

For the accused person: MR. HOMEN DAS

Dates of Evidences: 17.06.2014, 28.07.2015,
28.09.2016, 22.02.2018,
26.04.2019, 15.06.2019

Date of Argument: 15.10.2019

Date of Judgment: 25.10.2019

JUDGMENT

1. The accused person, namely, Sri Dighola Das, Son of Late Puwal Das, R/o Checkbandh, Fesh Chapari, Police Station- North Lakhimpur, District - Lakhimpur, here in this case has been put to

trial to answer the charges for the offence Punishable under Sections 341/325 of IPC.

2. The brief facts of the prosecution case is that on 28.12.2012 at about 4:00 P.M. while the informant was returning from Silinga Pathar then near the Chukbandh, some persons named in the ejahar including the accused with dao, lathi etc. came and wrongfully restrained him and assaulted him. There was a cash of Rs.5,700/- with the informant in his pocket, but thereafter, the said amount was missing from his pocket. Hence, the case, and the same was registered as North Lakhimpur Police Station Case No.850/2012 under Sections 341/325/34 of the Indian Penal Code against Sri Dighola Das and four other persons named in the ejahar. The Investigating Officer submitted Charge Sheet against both the accused person, namely, Sri Dighola Das, under Sections 341/325/34 of the Indian Penal Code.
3. After appearance of the accused Sri Dighola Das, the copy of the relevant document was furnished to him. After perusing CR and hearing the charges u/s 341/325 IPC are framed by my Learned Predecessor which on being read over and explained to the accused, he pleaded not guilty and claimed to be tried.
4. In support of the case, the prosecution has adduced 7 PWs, including the informant. The statement of the accused person was recorded under Section 313 Cr.P.C. and he stated that all the allegations are false against him and denied to adduce the evidence

in his support.

5. After perusing the case record and hearing both sides the following points for determination were framed by my Ld. Predecessor:

POINTS FOR DETERMINATION

(i) Whether the accused person, on 28.12.2012 at about 4 P.M. at Fesha Saponi near Chukbandh, wrongfully restrained the informant Nitul Gohain from proceeding towards his lawful direction and thereby committed offence under section 341 IPC?

(ii) Whether the accused person, on 28.12.2012 at about 4 P.M. at Feshu Saponi near Chukbandh, voluntarily caused grievous hurt to the informant without any reason, and thereby committed offence under section 325/34 IPC?

DECISIONS AND REASONS FOR DECISION:

6. I have heard the argument from both sides.
7. Both the points for determination are decided today for the purpose of convenience.
8. The informant stated in his ejahar that on 28.12.2012 at about 4:00 P.M. while the informant was returning from Silinga Pathar then near the Chukbandh, some persons named in the ejahar including the accused with dao, lathi etc. came and wrongfully restrained him and assaulted him. There was a cash of Rs.5,700/- with the informant in his pocket, but thereafter, the said amount was missing from his

pocket.

9. The informant as PW1 in his evidence stated that on the day of the incident while he was returning, the accused alongwith seven other boys stopped him and assaulted him and then snatched away Rs.5,700/- from him.
10. The PW2, who is the father of the informant, stated in his evidence that he was informed by Robin Gohain that his son was assaulted by someone from Kalyani Gaon and thereafter, he went near his son and saw injuries on his body and hand and he was bleeding and was lying on the ground.
11. The PW3, who is the near relative of the informant, stated in his evidence that on the day of the incident, he saw the informant lying on the road in an injured condition and he also saw the accused running away as well as four other persons running away in different directions. He then went near the informant and asked him what happened and then he replied that the accused hit on his hand with a rod. He saw injuries on the head of the informant and he was bleeding.
12. The PW5 stated in his evidence that he heard about a quarrel and at the time of the incident, he was not present.
13. The PW6, who is the brother of the informant, stated in his evidence that on the day of the incident, he found the informant lying on the road in an unconscious condition and was injured and bleeding. That on asking the informant could not answer immediately and after

some minutes he replied that the accused assaulted him.

14. From the above evidences, it can be known that the informant alleged that the accused alongwith some other persons wrongfully restrained him on the road and thereafter assaulted him with dau and lathi and then fled away. The PW3 deposed that it is he who saw the informant and asked him what happened and the informant told the name of the accused and that the accused hit on his head with a rod. The PW6 deposed that he found the informant lying on the road and on asking he replied by naming the accused that the accused assaulted him and then he informed his father and went away. Neither the PW3 mentioned about the PW6 in his evidence and nor the PW6 mentioned about the PW3. However, from their evidences, it could be known that both of them found the informant lying injured on the road. The father of the informant, i.e., PW2 told that he was informed by the PW3 that his son was assaulted by someone from Kalyani Gaon, but from the deposition of PW3, it can be known that the informant already told him the name of the accused, but from the evidence of the PW2, it can be known that the PW3 only mentioned to him that somebody from Kalyani Gaon assaulted the informant. Moreover, the PW6 deposed that he informed the PW2, i.e., the father of the informant, but the PW2 deposed that he was informed by the PW3. Hence, it can be known from the evidence that although the PW3 knew that the accused assaulted the informant, but he did not mention it to the father of the informant

but only told him that somebody from Kalyani Gaon assaulted the informant. Moreover, the PW2 did not mention the name of the PW6 that it was he who informed the PW2 about the condition of the informant. The PW2 only mentioned about the PW3 who informed him about the informant, but the PW3 did not depose that he informed the father of the informant, i.e., PW2 about the informant after he found him in the said condition. The PW3 deposed that he immediately took the informant to the hospital and thereafter took him to his house. He did not mention that immediately after finding the informant, he reported the same thing to the father of the informant. Hence, it can be seen that there are various anomalies in the evidences of the prosecution and moreover, the PW3 and PW6 are the relatives of the informant. There are no other independent witnesses, who have seen the incident. The independent witness PW5 only heard about a quarrel. As such, on the basis of the quality of the prosecution evidence, there arises several doubts as to the commission of the alleged offence by the accused person and this benefit of doubt goes in favour of the accused. As such, the prosecution has miserably failed in proving the guilt of the accused beyond all reasonable doubts under Sections 341/325 of the Indian Penal Code and thereby making him not guilty under the said sections.

(Contd....)

ORDER

As this court finds the accused person, namely, **Sri Dighola Das**, not guilty of the offence u/s **341/325** of the Indian Penal Code, the accused person is acquitted of the charges u/s **341/325** of the Indian Penal Code.

The accused person is set at liberty forthwith.

The bail bond is extended for 6 (six) months from today.

The judgment is pronounced in the open court.

Given under my hand and the seal of this court on this the 25th of October, 2019 at North Lakhimpur.

(SMT. SWEETY BHUYAN)
JUDICIAL MAGISTRATE 1ST CLASS
LAKHIMPUR, NORTH LAKHIMPUR

Dictated & Corrected by me:

(SMT. SWEETY BHUYAN)
JMFC, NORTH LAKHIMPUR

Transcribed & typed by me:

Kumar Gaurav (Stenographer)

APPENDIX

Prosecution witnesses

1. PW1: SRI NITUL GOHAIN
2. PW2: SRI PRAFULLA GOHAIN
3. PW3: SRI ROBIN GOHAIN
4. PW4: DR. MANIK MOHAN BARUAH
5. PW5: SRI MAINU DUTTA
6. PW6: SRI ATUL GOHAIN
7. PW7: RETD. SI KESHAB BORUAH

Defence witnesses

Nil.

Documents exhibited by the prosecution

1. EXT.1: EJA HAR
2. EXT.2: MEDICAL REPORT
3. EXT.3: SKETCH MAP
4. EXT.4: CHARGESHEET

Documents exhibited by the Defence

Nil.

(SMT. SWEETY BHUYAN)
JUDICIAL MAGISTRATE 1ST CLASS
LAKHIMPUR, NORTH LAKHIMPUR

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(SMT. SWEETY BHUYAN)
JMFC, NORTH LAKHIMPUR

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