

**IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE  
(SADAR), NORTH LAKHIMPUR, LAKHIMPUR**

**GR CASE NO: 1562 of 2016**

**U/s - 143/342/323 of IPC**

**State**

**-Versus-**

- 1. Md. Nurul Islam**
- 2. Md. Sofir Uddin**
- 3. Md. Hafiz Uddin**
- 4. Md.Heydatul Islam @ Hedayatul Islam and**
- 5. Md. Abdul Mutalib**

**.....Accused persons.**

**PRESENT : Smt. Sorbani Bhattacharjee , AJS  
Sub Divisional Judicial Magistrate (Sadar)  
Lakhimpur, North Lakhimpur.**

**ADVOCATES APPEARED-**

**FOR THE PROSECUTION : Sri Khirod Kr. Kakoti.**

**FOR THE ACCUSED : Md. Abdul Kadir.  
Smti Pallabi Borah**

**EVIDENCE RECORDED ON : 30.04.2019**

**ARGUMENT HEARD ON : 28.06.2019**

**JUDGMENT DELIVERED ON: 28.06.2019**

## **J U D G M E N T**

1. The prosecution story in brief is that on 20.06.2016 at about 7:00 PM the accused persons took the father of the informant Md. Solman Ali in front of their house and assaulted him with bamboo stick and handle of dao causing grievous injury over various parts of his body.
2. The Officer-in-charge, Bihpuria police station, on receipt of Ejahar registered Bihpuria P.S. Case No. 423/2016, U/S 143/342/325/326 of IPC and started investigation. After completion of the investigation, the concerned I.O. submitted charge sheet against the accused persons namely, Md. Nurul Islam, Md. Sofir Uddin, Md. Hafiz Uddin, Md. Heydatul Islam @ Hedayatul Islam and Md. Abdul Mutalib U/S-143/342/323 of IPC.
3. In due course, the accused persons appeared before the Court and the copies of relevant documents were furnished to them as per section 207 of CrPC. Having found a prima facie case against the accused persons the particulars of offences U/S 143/342/323 of IPC are read over and explained to them to which they pleaded not guilty and claimed to be tried.
4. The prosecution, in support of its case, examined the informant only. As per the submission of learned Assistant Public Prosecutor further evidence of prosecution side is closed. As there is no incriminating evidence against the accused persons hence recording of their statement U/S 313 of the Code of Criminal Procedure is dispensed. Defence side examined no witnesses. I have heard the arguments advanced by the learned counsels for both sides.

**5. POINTS FOR DETERMINATION:-**

(i) Whether the accused persons on 20.06.2016 at about 7:00 AM, at village No.2 Sonapur under the jurisdiction of Bihpuria Police Station, were members of an unlawful assembly the common object of which was to assault the father of the informant Md. Solman Ali and thereby committed an offence punishable U/S 143 of Indian Penal Code ?

(ii) Whether the accused persons, on the same day, time and place, wrongfully confined the father of the informant Md. Solman Ali near their house and thereby committed an offence punishable under section 342 of Indian penal Code ?

(iii) Whether the accused persons, on the same date, time and place, voluntarily caused hurt to the father of the informant Md. Solman Ali and thereby committed an offence punishable u/s-323 of Indian penal Code ?

**DISCUSSION, DECISION AND REASONS THEREOF:**

6. PW-1 Md. Rafiqul Islam in his evidence deposed that he is the informant of this case. He knows all the accused persons who are his co-villagers. Accused Ajgar Ali is his sister's husband and Sadir Ali is his father-in-law. In the year 2016 one day an altercation took place between his father Suleman Ali and the accused persons. Out of anger he lodged this case. His father has expired about 35 days back.

In cross-examination he deposed that his father had settled the matter amicably with the accused persons during his lifetime.

7. In this case prosecution examined only the informant Md. Rafiqul Islam of this case. In his evidence informant Rafiqul

Islam inter alia stated that in the year, 2016 one day an altercation took place between his father Solman Ali and the accused persons and out of anger he lodged this case. His evidence further reveals that his father Md. Solman Ali who is the victim of this case has already expired and during the life time of Solman Ali he had amicably settled the matter with the accused persons. In this case prosecution failed to examine any other PWs. As victim Solman Ali was not cited as PW in this case hence he was called as a CW in this case. The summons issued to Solman Ali returned without service with report that he had already expired and hence, he could not be examined in this case. The evidence of PW-1 reveals that he has not supported the prosecution case. He has not incriminated the accused persons of committing any offence. Situated thus, I am of the opinion that the prosecution has failed to prove the alleged offences against the accused persons beyond all reasonable doubt and hence the accused persons are hold not guilty for the alleged offences in this case.

### **ORDER**

8. Accordingly, the accused persons namely, Md. Nurul Islam, Md. Sofir Uddin, Md. Hafiz Uddin, Md. Heydatul Islam @ Hedayatul Islam and Md. Abdul Mutalib are acquitted of the offences U/S 143/342/323 of IPC and they are set at liberty forthwith. The bail bonds of the accused persons and their sureties shall remain in force for a period of 6 months from today as per amended Cr.P.C.

**Given under my hand and seal of this court on this 28<sup>th</sup> day of June, 2019.**

**Smti Sorbani Bhattacharjee, AJS  
Sub Divisional Judicial Magistrate (S)  
Lakhimpur, North Lakhimpur**

**GR 1562 of 2016**

**APPENDIX**

***PROSECUTION EXHIBITS:***

NIL

***DEFENCE EXHIBITS***

NIL

***PROSECUTION WITNESSES :***

(1) PW-1 Md. Rafiqul Islam

***DEFENCE WITNESSES***

NONE

***MATERIAL EXHIBITS***

NIL

**Smt. Sorbani Bhattacharjee, AJS  
Sub Divisional Judicial Magistrate (S)  
Lakhimpur, North Lakhimpur**