

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

GR CASE NO : 1608 of 2013

U/s - 341/323/506/34 of IPC

State

- Versus -

Sri Sushil Das

.....Accused person.

**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 : Sri Rupak Mahanta.

EVIDENCE RECORDED ON : 29.04.2019, 30.05.2019

ARGUMENT HEARD ON : 20.06.2019

JUDGMENT DELIVERED ON: 20.06.2019

JUDGMENT

1. The prosecution story in brief is that on 12.10.2013 at about 7:00 AM, the accused persons namely, Sri Susil Das, Sri Bipul Das and Sri Binod Das called the informant Sri Diganta Baruah to meet them and assaulted them near his house when he met the accused persons. The accused persons also threatened to kill him. At that time Rajib Baruah and Sanju Baruah were present at the place of

occurrence. The cause of the incident was that Susil Das and Bipul Das caught a turtle and one NGO namely "Peoples for Animals" informed Asom Jatiyatabadi Yuba Satra Parisad about it and they recovered the turtle from the accused persons and handed over the same to the NGO.

2. The Officer-in-charge, North Lakhimpur police station, on receipt of Ejahar registered North Lakhimpur P.S. Case No. 750/2013, U/S 341/323/506/34 of IPC and started investigation. After completion of the investigation, the concerned I.O. submitted charge sheet against the accused persons U/S 341/323/506/34 of IPC. Vide order dated 18.08.2015 the case against the accused Susil Das was filed as he was declared absconder by my predecessor. Thereafter, the case proceeded against the accused persons namely Binod Das, Bipul Das and finally on 23.08.2016 they were acquitted in this case after trial. On 26.02.2019 the accused Susil Das was produced before this court on arrest on the strength of NBWA issued against him and the case against him was revived.

3. In due course, the accused person Susil Das was furnished copy as per section 207 of CrPC. Having found a prima facie case against the accused person, the particulars of offences U/S 341/323/506/34 of IPC were read over and explained to him, to which he pleaded not guilty and claimed to be tried.

4. The prosecution, in support of its case, examined two witnesses including the informant. 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 person hence recording of his statement U/S 313 of the Code of Criminal Procedure is dispensed with. 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 on 12.10.2013, at about 7:00 AM, wrongfully restrained the informant Diganta Baruah and thereby committed an offence punishable under section 341 of Indian penal Code ?

(ii) Whether the accused on the same day, time and place, voluntarily caused hurt to the informant Diganta Baruah and thereby committed an offence punishable U/S 323 of Indian Penal Code ?

(iii) Whether the accused on the same day, time and place, criminally intimidated the informant by threatening him and thereby committed an offence punishable under section 506 of Indian Penal Code ?

DISCUSSION, DECISION AND REASONS THEREOF:

6. In this case prosecution examined two witnesses. The evidence of PW-1 Sri Diganta Baruah reveals that he is the informant of this case and he knows the accused Susil Das. In the year, 2013 one day an altercation took place between him and informant. He lodged this case out of anger and misunderstanding. Now he has settled the case amicably with all the accused persons of this case. He has no grievance against the accused Susil Das. The evidence of PW-2 Sri Rajib Baruah reveals that the informant and the accused both are his friend. He expressed his ignorance about the whole incident.

7. From the testimony of the PWs, it is quite evident that none of the PWs have implicated the accused Susil Das with the alleged offences. PW-1 being the informant-cum-victim of this case has not supported the prosecution case. He has not corroborated the contents of the ejahar. There is no iota of evidence in this case to hold the

accused Susil Das guilty. Situated thus, I am of the opinion that the ingredients of the offences u/s 341/323/506/34 of IPC have not been proved against the accused person beyond all reasonable doubt by the prosecution and hence the accused person is hold not guilty for the alleged offences.

ORDER

8. Accordingly, the accused person Sri Sushil Das is acquitted of the offences U/S-341/323/506/34 of IPC and he is set at liberty forthwith. The bail bond of the accused person and his surety shall remain in force for a period of 6 months from today as per amended CrPC.

Given under my hand and seal of this court on this 20th day of June, 2019.

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

GR 1608 of 2013

APPENDIX

PROSECUTION EXHIBITS:

Ext.1 : FIR

DEFENCE EXHIBITS

NIL

PROSECUTION WITNESSES :

(1) PW-1 Sri Diganta Baruah

(2) PW-2 Sri Rajib Baruah

DEFENCE WITNESSES

NONE

MATERIAL EXHIBITS

NIL

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

PW-1 in his examination he deposed that he is the informant of this case. He knows the accused. In the year 2013 one day an altercation took place with the accused Sushil Das on road in front of the house of other accused persons. Out of anger he lodged this case against Sushil Das and other accused persons. They have amicably settled the case with all the accused persons of this case. He has no grievance against Sushil Das.

In cross-examination he deposed that the case was lodged out of anger and misunderstanding.

7. PW-2 Sri Rajib Baruah in his evidence deposed that he knows the informant of this case who is his friend. He also knows the accused who is his friend. He does not know how the incident occurred. Defence declined to cross-examine him.