

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

GR CASE NO: 2355/2015

U/s - 325/417 of IPC

State

-Versus-

Sri Babul Saikia

.....Accused person.

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

ADVOCATES APPEARED-

FOR THE PROSECUTION : Sri Khirod Kr. Kakoti.

FOR THE ACCUSED : Sri Deepak Pokhrel

EVIDENCE RECORDED ON : 16.05.2019

ARGUMENT HEARD ON : 31.05.2019

JUDGMENT DELIVERED ON: 31.05.2019

JUDGMENT

1. The prosecution story in brief is that on 7.11.2015 at about 7:00 PM when the brother of the informant namely ; Sri Ajit Baiga

was working in the courtyard of the accused then the accused assaulted Ajit Baiga with a stick. The left hand of Ajit Baiga got fractured in the incident and accused took a signature from Ajit Baiga in a blank paper stating that the grain has already been divided between them. As his brother sustained grievous injury hence, he lodged this case lately.

2. The Officer-in-charge, North Lakhimpur police station, on receipt of Ejahar registered North Lakhimpur P.S. Case No. 1208/2015, U/S 326/420 of IPC and started investigation. After completion of the investigation, the concerned I.O. submitted charge sheet against the accused person namely, Sri Babul Saikia, U/S 325/420 of IPC.

3. In due course, the accused person appeared before the Court and the copies of relevant documents were furnished to him as per section 207 of CrPC. Having found a prima facie case against the accused person, the charge U/S 325/417 of IPC are framed, which 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 of this case. 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 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 person, on 7.11.2015 at about 7:00 PM at Lilabari under North-Lakhimpur P.S., voluntarily caused grievous hurt to the brother of the informant namely Sri Ajit Baiga and

thereby committed an offence punishable under section 325 of Indian penal Code ?

(ii) Whether the accused person, on the same day, time and place, cheated Sri Ajit Baiga by fraudulently taking his signature in a blank paper after writing that the grain has been divided and thereby committed an offence punishable under section 417 of Indian Penal Code ?

DISCUSSION, DECISION AND REASONS THEREOF:

6. PW-1, Sri Tuntun Baiga in his evidence deposed that he is the informant of this case. Accused is his neighbour. He used to cultivate the land of accused in aadhi. In the year 2015 one day in the month of November he was working in the house of accused. His brother Ajit Baiga was also there. Then an altercation took place between him and accused. Then his brother tried to console them. Accused also had altercation with Ajit Baiga. Out of anger he lodged this case after the incident. Now they have settled the matter amicably with the accused. In cross examination he declined that he has no grievance against the accused.

7. PW-2 Sri Ajit Baiga in his evidence deposed that informant is his brother. Accused is his neighbour. Informant used to cultivate the land of accused on aadhi. In the year 2015 one day in the month of November his brother was working in the house of accused. He was also there in the house of accused. Then an altercation took place between informant and accused regarding distribution of grain between them. Then he tried to console them. Accused also had altercation with him. Out of anger informant lodged this case after the incident. Now they have settled the matter amicably with the accused. In the cross examination he declined that he has no grievance against the accused.

8. In this case prosecution examined altogether two witnesses who are the informant-cum-victim of this case. From the evidence of PW-1 who is the informant of this case and PW-2 who is the victim of this case it is apparent that on the day of incident an altercation took place between informant and accused. PW-2 tried to console both informant and accused. Then accused also had altercation with PW-2. Out of anger informant lodged this case and now both the parties have settled the matter amicably. From the evidence of the PWs, it is crystal clear that none of them incriminated the accused of committing any offence. In such circumstances the accused cannot be hold guilty in this case. Situated thus, I am of the opinion that the ingredients of the offences u/s 325/417 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

9. Accordingly, the accused person namely, Sri Babul Saikia is acquitted of the offences U/S 325/417 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 31st day of May, 2019.

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

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APPENDIX

PROSECUTION EXHIBITS:

NIL

DEFENCE EXHIBITS

NIL

PROSECUTION WITNESSES :

(1) PW-1, Tuntun Baiga

(2) PW-2 Sri Ajit Baiga

DEFENCE WITNESSES

NONE

MATERIAL EXHIBITS

NIL

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