

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS**

**North Lakhimpur, Lakhimpur**

**PRESENT: Ms. Sparsita Garg, M.A, LL.M, AJS**

Judicial Magistrate First Class,

Lakhimpur, North Lakhimpur

**G.R. Case No.801/2018**

**State**

**Versus**

**Ishad Ali and others**

**( Under sections 341/448/506/34 IPC )**

Offence explained on : 11.06.2019 & 20.03.2021  
Evidence recorded on : 20.03.2021  
Statements recorded on : Dispensed with  
Arguments heard on : 20.03.2021  
Judgment delivered on : 20.03.2021  
Advocate for the Prosecution : Mr. Jangki Doley  
Advocate for the Accused : Md. Inamul Haque Choudhary

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

- 1.** Accused persons stood for trial for commission of offence u/s 448/341/352/506/34 IPC.
- 2.** The prosecution case is initiated on the basis of written ejahar dated 09.04.2018 stating *inter alia* that the accused persons tried to abduct the wife of the informant Habia

Khatoon. When the mother of the informant came to rescue Habia Khatoon she was assaulted by the accused persons and further threatened with dire consequences. On 09.04.2018 at about 9:30 a.m., when the wife of the informant was proceeding towards the road, the accused persons restrained her. The informant came running to save his wife and on seeing him the accused persons fled away. The informant submits that the accused persons threatened to kill his wife. Hence, this case.

**3.** On receipt of the ejahar, the Officer-in-Charge of North Lakhimpur Police Station registered the case as North Lakhimpur P.S. case no. 357/2018 u/s 341/366/511/323/506/34 IPC. Thereafter Investigating Officer launched investigation of the case and submitted chargesheet u/s 294/506/34 of the Indian Penal Code against the accused persons namely Md. Ishad Ali, Md. Mataleb Ali and Md. Abu Sahid.

**4.** Thereafter, cognizance has been taken and summon have been issued to the accused persons. On appearance of accused persons, necessary documents required u/s 207 Cr.P.C have been furnished to them. On perusal of the materials on record substance of accusation u/s 448/341/352/506/34 IPC is read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

**5.** Prosecution in support of its case has examined only one (1) witness.

**6.** Examination of accused persons u/s 313 Cr.P.C. is dispensed with since no incriminating materials are found against them. Accused persons denied adducing evidence in defence.

**7.** I have heard the arguments advanced by the learned counsel for the accused persons and Ld. A.P.P. Perused the materials available in the case record. Upon hearing both the parties and on perusal of the record, following points for determination are formulated for proper adjudication of this

case.

**8.** At the time of preparation of the judgment, it has come to the knowledge of this court that offence was explained to the accused persons under sections 448/341/352/506/34 of the Indian Penal Code but perusal of the materials available in the case record transpires that the accused persons are guilty of committing offence under sections 341/448/506/34 of the Indian Penal Code. Accordingly, the provision under section 216 of the Code of Criminal Procedure the charges are alter and substance of accusation under section 341/448/506/34 of the Indian Penal Code is read over and explained to the accused persons to which they pleaded not guilty.

**POINTS FOR DETERMINATION:**

**Point No 1:** Whether the accused persons in furtherance of common intention on 09.04.2018 at about 9:30 a.m., restrained the wife of the informant Amina Begum and thereby committed an offence punishable u/s 341/34 of IPC?

**Point No 2:** Whether the accused persons in furtherance of common intention criminally trespassed into the house of the informant with an intent to commit an offence and thereby committed an offence punishable u/s 448/34 of IPC?

**Point No 3:** Whether the accused persons in furtherance of common intention criminally intimidated the informant and his wife with an injury to them and with an intent to cause alarm and thereby committed an offence punishable u/s 506/34 of IPC?

**DISCUSSIONS, DECISIONS AND REASONS THEREOF:**

**8.** Now let me try to decide the above points by appreciating the evidence available in the case record. I have carefully considered the evidence available in the instant case. From the

evidence of **P.W-1/informant Najimuddin**, it reveals that the informant is no more interested to proceed with the case against the accused persons on the ground that the matter is amicably settled between them. It also reveals that the informant himself has refused to lead evidence against the accused persons in support of the ejahar lodged in this case by him. Thus, from the little evidence that has been brought before this court in the form of statement made by the informant/P.W-1, it is seen that no offence has been made out against the accused persons under any section of law. Situated thus, it is found that the informant has failed to implicate the accused persons of any offence.

### **ORDER**

**9.** In view of the above discussions, I am of the considered opinion that, prosecution has failed to establish the case against accused persons namely Md. Ishad Ali, Md. Mataleb Ali and Md. Abu Sahid. Accordingly, accused persons are acquitted of the charge u/s 341/448/506/34 IPC levelled against them in this instant case.

**10.** Set the accused persons at liberty forthwith.

**11.** The bail bonds for the accused persons are extended for a further period of six (6) months.

**12.** The case is disposed of on contest accordingly.

Given under my hand and seal on this 20<sup>th</sup> day of March, 2021  
at North Lakhimpur, Lakhimpur.

(Ms. Sparsita Garg)  
Judicial Magistrate First Class  
Lakhimpur, North Lakhimpur

**APPENDIX**

**A. WITNESS OF PROSECUTION:**

1. P.W.1 : Najimuddin

**B. EXHIBITS OF PROSECUTION:**

1. Exhibit 1 : Ejahar
2. Exhibit 1(1): Signature of the informant

**C. WITNESS OF DEFENCE: NIL**

**D. EXHIBITS OF DEFENCE: NIL**

(Ms. Sparsita Garg)  
Judicial Magistrate First Class  
Lakhimpur, North Lakhimpur