

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

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

GR CASE NO.2876/2016
U/S 447/352/34 IPC.

PARTIES:

STATE OF ASSAM

VS

1. SRI PRODIP CHUTIA

2. SRI DEEP DAS

3. SRI MANASH KUMAR GOGOI

..... ACCUSED PERSONS

Appearance:

For the State: MR. JANGKI DOLEY

For the accused persons: MR. CHIRANJIB GOGOI

Date of Evidence: 15.02.2020

Date of Argument: 15.02.2020

Date of Judgment: 15.02.2020

JUDGMENT

1. The accused persons, namely, **Sri Prodip Chutia**, son of Lila

Chutia, R/o village Berchang, Boginadi, Police Station- Boginadi, at present residing at Railway Colony Quarter No.22-B, **Sri Deep Das**, son of Sri Chandra Nath Das, R/o village- Malegaon, Gosala, Krishna Nagar, House No.9, Police Station- Jalukbari, District - Kamrup, at present residing at Railway Colony, and **Sri Manash Kumar Gogoi**, son of Late Premadhar Gogoi, R/o village - Nakari, Ward No.2, Rajen Kumar Path, Police Station - North Lakhimpur Police Station, District - Lakhimpur, here in this case has been put to trial to answer the charges for the offence Punishable under sections 447/352/34 of the Indian Penal Code.

2. The brief case of the prosecution case is that on 05.11.2016 there was a meeting of the N.F. Railway Employees' Union held at the main office of the Union and then the accused Pradip Chutia alongwith the other two accused persons physically attacked the informant. The informant was the Branch Secretary of the said Union. Thereafter, the accused Pradip Chutia attempted to attack him with the knife but somehow the informant fled away. That there was a pre-planning amongst the accused persons to attack the informant. Hence, the case and the same was registered as North Lakhimpur Police Station Case No.1144/2016 under Sections 448/323/506/34 of IPC against two persons, namely, Sri Prodip Chutia, Sri Deep Das and Sri Manash Kumar Gogoi named in the ejahar. The I.O submitted Charge Sheet against the accused Sri Prodip Chutia, Sri Deep Das and Sri Manash Kumar Gogoi u/s

448/323/506/34 of IPC. The accused persons took bail from the court and copy has been furnished to the accused u/s 207 CrPC.

3. On perusal of case record prima facie material against the accused persons are found under sections 447/352/34 of the Indian Penal Code, hence, the particulars of the offences under Sections 447/352/34 of the Indian Penal Code are read over and explained to the accused persons, to which they pleaded not guilty and claimed to be tried.
4. In support of the case, the prosecution has adduced 1(one) PW. The statement of the accused persons u/s 313 CrPC is dispensed with due to lack of incriminating materials.
5. After perusing the case record and hearing both sides the following points of determination are framed:

The Points for Determination:

- (i) Whether, the accused persons, on 05.11.2016 (time not mentioned) at the main office of the Union at N.L. Railway Station, in furtherance of their common intention, entered into or upon the property in the possession of the N.F. Railway Employees' Union with the intent to commit an offence, and thereby committed an offence punishable under section **447** of IPC?
- (ii) Whether the accused persons, on 05.11.2016 (time not mentioned) at the main office of the Union at N.L. Railway Station, in furtherance of their common intention, assaulted

or used criminal force against the informant, otherwise then on grave and sudden provocation given by him, and thereby committed an offence punishable under section **352** IPC?

Decisions and Reasons for decision:

6. I have heard the argument from both sides.
7. The informant stated in his evidence as PW1 that he and the accused persons all work in the same department. The incident took place in the month of November, 2016 in the day time at the railway rest house. There was a meeting held in the Union Office, which was on the top floor of the rest house and after that when they came to the rest house there was some verbal altercations between all of them concerning the meeting. The informant was the Branch Secretary of the Union. There was some misunderstanding between them and thereafter he lodged the case. After that the accused persons also lodged a case against him.

In cross-examination, the PW1 stated that today the case lodged against him by the accused persons has been disposed of in the court of the Hon'ble Additional Chief Judicial Magistrate on compromise between both the parties. He has no grievances against the accused persons and if they are acquitted he has no objection.

8. I have gone through the evidence. From the evidence of the PW1/informant, it can be known that there were some verbal altercations between the informant and the accused persons

concerning the meeting of the Union. The informant was the Branch Secretary of the Union. There was some misunderstanding between them and thereafter he lodged the case. Hence, the prosecution witness could not establish the charges levelled against the accused persons as the informant himself did not bring any allegation against the accused persons. The main allegations have been levelled by informant. Moreover, there are no injury report of either the informant or any other member of the concerned Union. And from the evidence of informant, it can be known that there was only a misunderstanding. As such, the accused persons are hereby not found guilty of the offences u/s 447/352/34 IPC.

- 9.** Hence, summing up all that has been discussed above the prosecution has failed to prove the guilt of the accused persons u/s 447/352/34 IPC beyond reasonable doubt.

(CONTD....)

ORDER

As this court finds the accused persons, namely, **Sri Prodip Chutia, Sri Deep Das** and **Sri Manash Kumar Gogoi** not guilty of the offence u/s 447/352/34 IPC, the accused persons are acquitted of the charges u/s 447/352/34 IPC.

The accused persons are set at liberty forthwith.

The bail bonds are extended for 6 (six) months from today.

The judgment is pronounced in the open court.

**Given under my hand and seal of this court on 15th
day of February, 2020.**

(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: Bikash Gogoi

Defence witnesses

Nil.

Documents exhibited by the prosecution

1. Ext.1: Ejahar

Documents exhibited by the Defence

Nil.

(Smt. Sweety Bhuyan)
JUDICIAL MAGISTRATE 1ST CLASS
Lakhimpur, North Lakhimpur

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