

**IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE  
AT NORTH LAKHIMPUR**

G.R CASE NO: 880 OF 2018  
PROSECUTOR: STATE OF ASSAM Vs  
ACCUSED: SRI PRAFULLA DAS AND ORS.

DISTRICT: NORTH LAKHIMPUR  
IN THE COURT OF ADDITIONAL CHIEF JUDICIAL  
MAGISTRATE, AT NORTH LAKHIMPUR

GR CASE NO: 880 / 2018

U/S 448/323/352/500/34 OF I.P.C

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: SRI PRAFULLA DAS AND ORS.

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P  
ADVOCATE FOR THE ACCUSED: MR. HARI PRASAD PHUKAN

OFFENCE EXPLAINED ON : 31.05.2019  
EVIDENCE RECORDED ON : 29.06.2019, 27.12.2019

ARGUMENT HEARD ON : 27.12.2019  
JUDGMENT DELIVERED ON : 27.12.2019

**JUDGMENT**

**PROSECUTION'S CASE IN BRIEF**

1. Prosecution's case in brief as it reveals from the F.I.R is that on 16/04/2018 at about 11:00 P.M in the night, without any permission entered inside the house of informant Sri Pradip Das and then assaulted him and caused injury. The accused persons also assaulted informant's daughter in law Smti Moromi Das, informant's wife Smti Padma Das, informant's son Sri Rantu Das and Sri Kaliman Das and caused injury to them. The accused persons also took away Rupees 2000/- from the house of

informant. The informant then lodged an F.I.R about the occurrence before the O/C of Narayanpur P.S.

2. On receipt of the F.I.R, police registered a case and after investigation submitted charge sheet against accused Sri Prafulla Das, Sri Punaram Das, Smti Marami Das, Sri Chandra Das, and Smti Dauki Das for the offences punishable under section 448/323/352/500/34 of I.P.C. Copies of relevant documents were furnished to the accused persons u/s 207 CrPC. Considering the relevant documents and hearing both the parties, particulars of the offences punishable u/s 448/323/352/34 of IPC are read over and explained to the accused persons to which they pleaded not guilty and stood to face the trial.

3. The prosecution in support of its case examined five witnesses; whereas the accused did not adduce evidence of any witness. The examination of accused u/s 313 of CrPC was dispensed with finding no incriminating materials against them. I have heard the learned counsel for both the parties.

4. Upon hearing and on perusal of record I have framed the following points for determination-

**POINTS FOR DETERMINATION:**

(1) Whether the accused persons in furtherance of their common intention on 16/04/2018 at about 11:00 P.M at Satborbori under Narayanpur P.S, unlawfully entered inside the dwelling house of informant Sri Pradip Das with the intention to assault the informant and his family members, or to intimidate, insult or annoy the informant and his family members, and thereby committed an offence punishable under section 448/34 of I.P.C?

(2) Whether the accused persons in furtherance of their common intention on 16/04/2018 at about 11:00 P.M at Satborbori under Narayanpur P.S, voluntarily assaulted the informant and his daughter in law Smti Moromi Das, wife Smti Padma Das, son Sri Rantu Das and Sri Kaliman Das with the intention to cause hurt to them, and thereby caused injury to them, and thereby committed an offence punishable under section 323/34 of I.P.C?

(3) Whether the accused persons in furtherance of their common intention on 16/04/2018 at about 11:00 P.M at Satborbori under Narayanpur P.S, assaulted or used criminal force upon the informant and his daughter in law Smti Moromi Das, wife Smti Padma Das, son Sri Rantu Das and Sri Kaliman Das, otherwise than on grave and sudden provocation, and thereby committed an offence punishable under section 352/34 of I.P.C?

**DISCUSSION OF EVIDENCE, DECISION AND REASONS THEREOF:****POINT NO.1, 2& 3**

5. For the sake of convenience and as because point no.1, 2& 3 are inter-connected, hence they are taken up herein together for discussion & decision. As regards the aforesaid points for determination, informant/PW1 Sri Prodip Das, informants daughter in law Smti Moromi Das/PW2, informant's son Sri Koliman Das/PW3, informant's wife Smti Padma Das/PW4, and informant's another son Sri Rantu Das/PW5 in their respective evidence in chief have stated that about 1-2 years back on a day at about 08:00 P.M, they had an altercation with the accused persons with respect to family matter near their house. Thereafter the informant lodged an F.I.R in police station about the occurrence. Exhibit – 1 is that F.I.R in which exhibit – 1(1) is the signature of informant/PW1. After lodging of that F.I.R, the aforesaid dispute between both the parties got settled amicably due to which they are not interested to proceed with this case any further. During their cross-examination, the said five witnesses have stated that that they do not have any objection if the accused persons are acquitted from this case.

6. At the time of arguments, learned counsel for defence submitted that the prosecution has failed to prove its case, and hence, the accused persons are liable to be acquitted from this case.

7. On perusal of the evidence deposed by PW1, PW2, PW3, PW4, & PW5 as narrated above, it is seen that at the time of occurrence, the informant and his daughter in law and wife and two sons had allegedly had an altercation with the accused persons with respect to family matter near their house. There is nothing in the evidence of said five witnesses which can show that the accused persons unlawfully entered into the dwelling house of informant, or assaulted and caused hurt to informant and his said family members, or used criminal force upon them. The said five witnesses in their respective evidence have not stated anything about any unlawful entry of accused inside the dwelling house of informant, or assault, or use of criminal force by the accused upon the informant and his said family members. A simple altercation between both the parties cannot be understood to constitute the offences as alleged. There is no iota of evidence in the case record which can prove the offences as alleged in the F.I.R. Hence, it is clear that the witnesses examined by prosecution have not deposed any incriminating evidence and have failed to prove the case of prosecution as alleged in the F.I.R.

*DECISION: Point no.1, 2& 3 are therefore decided in the negative and goes against the prosecution.*

**ORDER**

8. In view of the discussions made above and the decisions reached in the foregoing points for determination, it is held that the witnesses examined by prosecution have failed to prove that accused Sri Prafulla Das, Sri Punaram Das, Smti Marami Das, Sri Chandra Das, and Smti Dauki Das have committed the offences punishable under section 448/323/352/34 of IPC as alleged, and as such, the accused person is acquitted of the charges under section 448/323/352/34 of IPC and he be set at liberty forthwith.

The bail bond submitted by the accused shall remain in force for another five months from today.

This judgment is given under my hand, and seal of this court on this the 27<sup>th</sup> day of December, 2019.

The case is disposed of on contest.

F.U. Choudhury  
Additional Chief Judicial Magistrate  
North Lakhimpur

**APPENDIX****(A) PROSECUTION EXHIBITS**

Exhibit. 1 – FIR

**(B) DEFENCE EXHIBITS**

Nil

**(C) PROSECUTION WITNESSES**

P.W. 1 – Sri Pradip Das

P.W. 2 – Smt. Moromi Das

P.W. 3 – Sri Koliman Das

P.W. 4 – Smt. Padma Das

P.W. 5 – Sri Rantu Das

**(D) DEFENCE WITNESSES**

Nil

F.U. Choudhury  
Additional Chief Judicial Magistrate  
North Lakhimpur