

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

**GR CASE NO.490/2014
U/S 341/323/34 IPC.**

PRESENT:

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

PARTIES:

STATE OF ASSAM

Vs

1. Sri Raju Dutta @ Dudu Dutta

2. Sri Biswajeet Dutta @ Jit Dutta

..... ACCUSED PERSONS

Appearance:

For the State: MR. JANGKI DOLEY

For the accused persons: MR. HOMEN DAS

Dates of Evidences: 28.11.2017, 13.03.2018,
01.06.2018, 02.07.2018,
14.08.2018, 17.12.2012

Date of Argument: 27.02.2019

Date of Judgment: 09.04.2019

JUDGMENT

- 1.** The accused persons, namely, **Sri Raju Dutta @ Dudu Dutta**, Son of Sri Dipan Dutta, **Sri Biswajeet Dutta @ Jit Dutta**, Son of Late Sarnath Dutta, Both are R/o village: Bormuria, Ward No.12, Police Station - North Lakhimpur, in the District of Lakhimpur, here in this case have been put to trial to answer the charges for the offence Punishable under Section 341/323/34 of the Indian Penal Code.
- 2.** The brief facts of the prosecution case is that on 28.03.2014 at about 6:30 P.M., while the informant was driving his Maruti van from Kopohua to his house and at the Bormuriya Tiniali, his van struck on the body of a Maruti Wagon R Car, and as such, he and the owner of the Wagon R was discussing on the matter and then both the accused persons came and assaulted him with hands and rod, as a result he sustained grievous injuries. Hence, the case, and the same was registered as NLPS Case No.257/2014 under Sections 341/326/34 of the Indian Penal Code against Sri Raju Dutta @ Dudu Dutta and Sri Biswajeet Dutta @ Jit Dutta named in the ejahar. The Investigating Officer submitted Charge Sheet against the accused persons, namely, Sri Raju Dutta @ Dudu Dutta and Sri Biswajeet Dutta @ Jit Dutta under Sections 341/323/34 of the Indian Penal Code.
- 3.** After appearance of the accused persons, the copies of the relevant documents were furnished to them. Upon hearing and on perusal of the case record the particulars of offence under sections 341/323/34

of IPC were read over and explained to the accused persons by my Learned Predecessor to which they pleaded not guilty and claimed to be tried.

4. In support of the case, the prosecution has adduced 6(six) PWs, including the informant/victim. The statements of the accused persons were recorded under Section 313 Cr.P.C. and the accused persons stated that all the allegations are false against them and denied to adduce the evidence in their support.
5. After perusing the case record and hearing both sides the following points for determination are framed:

The Point for Determination:

- (i) Whether the accused persons, on 28.03.2014 at about 6:30 P.M., at the Bormuriya Tiniali, in furtherance of their common intention, wrongfully restrained the informant, and thereby committed the offence under section 341/34 IPC?
- (ii) Whether the accused persons on 28.03.2014 at about 6:30 P.M. at the Bormuriya Tiniali, in furtherance of their common intention, voluntarily caused hurt to the informant, and thereby committed the offence under section 323/34 of the Indian Penal Code?

DECISIONS AND REASONS FOR DECISION:

6. I have heard the argument from both sides.

- 7.** Both the points for determination are decided together for the purpose of convenience.

The informant stated in his ejahar that on 28.03.2014 at about 6:30 P.M., while the informant was driving his Maruti van from Kopohua to his house, and at the Bormuriya Tiniali his van struck on the body of a Maruti Wagon R Car, and as such, he and the owner of the Wagon R was discussing on the matter and then both the accused persons came and assaulted him with hands and rod, as a result he sustained grievous injuries.

The informant in his evidence before the court as PW2 stated that on the day of the incident while he was returning from Kopohua to K.B. Road in his own van and in the Bormuriya Tiniali, one Wagon R car was parked and his van while passing by scratched the Wagon R. Then both the accused persons were present on the spot and they started assaulting him. After that he somehow rescued himself and reported the same to the police.

In his cross-examination, the PW2/informant stated that the ejahar was written according to his instructions but it is not mentioned in the ejahar the name of the person who wrote it. At the time of the incident, number of people gathered. He denied that when the driver of the Wagon R car came out, the informant used slang languages against him. The PW2 denied that the quarrel took place between him and the driver of the Wagon R car and not with the accused persons. He also denied that the accused persons did

not assault him but tried to stop the quarrel between him and the driver of the Wagon R. He further denied that the incident took place in the month of May, 2014. He further denied that as he went out of his car, he accidentally got struck by the other vehicle and injured himself. He further denied that he was deposing falsely that day against the accused persons.

The PW1 stated in his evidence that the incident took place in the year 2014 at about 6:00 P.M. -6:30 P.M., while he stopped his Wagon R Car by the side of the road on the KB Road, then the informant struck the car of the PW1 from his car, thereafter the informant got down from his car and quarreled with the PW1 and used obscene words against you and due to the same hue and cry was raised and people gathered and tried to stop the quarrel. He does not remember whether the accused persons were on the place of occurrence as he did not notice the same. There was another person with the informant whom he does not recognized. The incident took place between him and the informant and he does not know why the informant lodged the case against the accused persons.

In his cross-examination, the PW1 stated that number of people gathered on the place of occurrence, but he did not see the accused persons. And he did not see any assault while he was present on the place of occurrence.

The PW3 stated in his evidence that he saw the accused

persons on the place of occurrence. On the day of the incident, while he was pulling rickshaw, he saw both the accused persons pulling and keeping the informant/victim aside after the accident. Both the cars were personal cars, which he saw on the place of occurrence. His cross-examination was declined.

The PW4 stated in his evidence that on the day of the incident, a Wagon R car was parked at Bormuriya Tiniali near a shop. The informant driving a Verna car was coming from the Panigaon side and he struck on the Wagon R, which was parked on the wrong side of the road. After that the informant parked his car came down towards the Wagon R and talked with its owner and they exchanged phone numbers and made some talks of payment, and thereafter, they left and the PW4 also went away. On the next day, the informant told the PW4 that some persons assaulted him and therefore, he lodged a case.

In cross-examination the PW4 stated that he does not know who assaulted whom and the police did not interrogate him. He denied that the informant did not state before him that some persons assaulted him and he lodged the case.

As can be seen from the above evidences, the informant stopped his van as because while passing by he scratched the Wagon R of another person by his van. As such, he did not state about any wrongful restraint by the accused persons. It can be known that he voluntarily stopped on the place of occurrence and thereafter, the alleged incident took place. Moreover, the PWs are

silent as to any wrongful restraint or obstruction by the accused persons. As such, the offence of wrongful restraint could not be proved by the prosecution, and the accused persons cannot be held guilty under Section 341 of the Indian Penal Code.

As to the offence of voluntarily causing hurt, although the informant alleged that the accused persons assaulted him, but none of the PWs saw the accused persons assaulting the informant. The PW1 and the PW3 who were present on the place of occurrence did not see the accused persons assaulting the informant. Although the medical report and the evidence of the M.O. reveals that the informant sustained lacerated injury over the right forearm and the said injury was simple caused by blunt object and age of the injury was fresh. But it cannot be said that those injuries have been caused by the accused persons as none of the witnesses corroborated or supported the version of the informant that he was assaulted by the accused persons. Hence, due to the lack of evidences on the said fact the accused persons cannot be held guilty for the offence of voluntarily causing hurt to the informant, thereby making them not guilty under Section 323 of the Indian Penal Code.

(Contd....)

ORDER

As this court finds the accused persons, namely, **Sri Raju Dutta @ Dudu Dutta, Sri Biswajeet Dutta @ Jit Dutta** not guilty of the offence u/s 341/323/34 of IPC, the accused persons are acquitted of the charges u/s 341/323/34 of 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 9th of April, 2019.

(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: NIRANJAN SAIKIA
2. PW2: ANURAG BHUYAN
3. PW3: RAJU DAS
4. PW4: CHANDAN HAZARIKA
5. PW5: DR. ARPANA DUTTA
6. PW6: SI RUFU CHETIA

Defence witnesses

Nil.

Documents exhibited by the prosecution

1. EXT.1: EJA HAR
2. EXT.2: INJURY CERTIFICATE
3. EXT.3: SKETCH MAP
4. EXT.4: CHARGESHEET

Documents exhibited by the Defence

Nil.

(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)