

**DISTRICT: NAGOAN
IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, HOJAI**

**GR CASE NO: 797/09
U/S 341/325/34 IPC**

**PROSECUTOR: STATE OF ASSAM
VERSUS
ACCUSED: MUKTAR ALI & ORS.**

PRESENT: BISWADEEP BARUAH, JMFC, HOJAI

ASSISTANT PUBLIC PROSECUTOR: SRI. B. BHATTACHARJEE

ADVOCATE FOR THE ACCUSED: SRI. F. ISLAM. AYESHA SIDDIKA

EVIDENCE RECORDED ON: 21/03/17

ARGUMENT HEARD ON: 21/03/2017

JUDGMENT DELIVERED ON: 03/04/2017

JUDGMENT

1. The prosecution in this case was launched by the lodging of the ejahar with the Officer in Charge of the Lanka Police Station by the informant Yasin Ali on 16/08/09 to the effect that on 15/08/09 at about 6 p.m., the accused persons namely Muktar Ali, Bilal Uddin and Dilwar Miya waylaid the informant and unlawfully restrained him when the informant was on his way to visit his maternal uncle. The accused persons assaulted him causing him grievous hurt..
2. The police upon receipt of the ejahar registered Lanka Police Station case no. 120/2019 u/s 341/325/34 of IPC and started investigation in the case. After completion of the investigation the police submitted chargesheet against the accused, Muktar Ali, Bilal Uddin and Dilwar Miya under sec 341/325/34 of IPC.

3. The accused were called upon to enter trial and copies of all the relevant documents were furnished to them. Upon hearing and on perusal of record, formal charge under sec 341/325/34 of IPC was framed against the accused which was read over and explained to the accused to which they pleaded not guilty and claimed to be tried.
4. The prosecution in support of its case examined one witness who is the informant; whereas the defense did not adduce any evidence.
5. The statement of defense of the accused u/s 313 Cr.P.C. was discarded with since the accused was not incriminated by the Prosecution Witness.
6. I have heard both the parties. I have heard the learned counsel for the accused persons who submitted that there is no material against the accused; as such the accused needs to be acquitted.
7. Upon hearing and on perusal of record I have formulated the following point for determination-
 - (1) Whether the accused persons had on 15/08/09 at about 6 p.m., unlawfully restrained the informant in pursuance of their common intention and thereby committed offence punishable under sec 341/34 of IPC?
 - (2) Whether the accused persons had on 15/08/09 at about 6 p.m., voluntarily caused grievous injury to the informant in pursuance of their common intention and thereby committed offence punishable under sec 325/34 of IPC
8. Now let me discuss the materials on record and try to arrive at a definite finding as regards the points for determination.

DISCUSSION, DECISION AND REASONS FOR THE DECISION:

POINT FOR DETERMINATION NOS.1 and 2:

9. The prosecution examined one witness who is the informant of the instant case. The defense did not adduce any witnesses.
10. PW1, Yashin Ali stated that the accused were all known to him. He stated that the incident took place around five years back at about 6 p.m. and there was a misunderstanding between him and the accused persons which resulted in an argument over a trivial issue and he filed the case in anger. Exhibit 1 being the ejahar and Exhibit 1(1) being his signature was proved by PW1.

11. In his cross examination, PW1 stated that the matter has been amicably resolved and he did not have any objection to the acquittal of the accused.

12. *DECISION:* In analyzing the depositions of the Prosecution Evidence, it is seen PW1 who is the informant has not implicated the accused in any manner. He has merely stated that there was an argument between him and the accused over a trivial issue. Moreover it appears that the matter has been amicably settled and the informant does not want to implicate the accused. PW1 further stated that he did not object to the acquittal of the accused. Hence in light of the evidence of the informant, the point of determination is answered in negative, in favour of the accused persons.

ORDER

1. In view of the discussions made above and the decision reached therein it is held that the prosecution has failed to prove the charge against the accused; the Prosecution witness has not supported the case and incriminated the accused in any manner; as such the accused Muktar Ali, Bilal Uddin and Dilwar Miya are held not guilty of the charge under section 341/325/34 of IPC and acquitted.
2. The case is disposed of on contest without cost.
3. The bail bonds of the accused stands extended for a period of six months.

Given under my hand and the seal of this court on this the 03rd day of April, 2017 at Hojai.

BiswadeepBaruah,
Judicial Magistrate First Class, Hojai.

APPENDIX:

WITNESS FOR THE PROSECUTION:

PW1 Yashin Ali

WITNESS FOR THE DEFENSE: NONE

EXHIBITS:

EXHIBIT 1 EJA HAR

EXHIBIT 1(1) SIGNATURE OF PW1