

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

**GR CASE NO: 946/13  
U/S 143/294/506/323 IPC**

**PROSECUTOR: STATE OF ASSAM  
VERSUS  
ACCUSED: ALIMUDDIN & ORS.**

**PRESENT: BISWADEEP BARUAH, JMFC, HOJAI**

**ASSISTANT PUBLIC PROSECUTOR: SRI. B. BHATTACHARJEE**

**ADVOCATE FOR THE ACCUSED: SRI. Y. A. TALUKDAR, DEEPAK DEBNATH**

**EVIDENCE RECORDED ON: 04/02/15, 19/02/15, 23/04/15, 01/07/15**

**ARGUMENT HEARD ON: 01/04/2017**

**JUDGMENT DELIVERED ON: 12/04/2017**

### **JUDGMENT**

1. The prosecution in this case was launched by the lodging of the ejahar with the Officer in Charge of the Murajhar Police Station by the informant Md. Abdur Rahim Talukdar on 27/06/13 to the effect that on the instant date about 11 a.m., the informant had participated in a public meeting held at the Office of the Murajhar village panchayat where he raised many issues related to the public interest. In the meeting the accused persons namely, Alimuddin, Moinuddin, Abdul Mannan, Abdul Salam, Afzal Hussain and Azaruddin abused the informant in a filthy language in the presence of the public. Accused Alimuddin grabbed the informant by the collar and tried to assault him and he was saved at the intervention of the public. After the conclusion of the meeting, the accused persons shouted from the verandah that they would get the informant killed.
2. The police upon receipt of the ejahar registered Murajhar Police Station case no. 124/2013 u/s 143/294/352/506 of IPC and started investigation in the case. After

completion of the investigation the police submitted chargesheet against the accused, Alimuddin, Moinuddin, Abdul Mannan, Abdul Salam, Afzal Hussain and Azaruddin under sec 143/294/323/506 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, particulars of offence under sec 143/294/323/506 of IPC was explained to the accused to which they pleaded not guilty and claimed to be tried.
4. The prosecution in support of its case examined four witnesses including the informant; whereas the defense did not adduce any evidence.
5. The defense case is of total denial as is evident from their statement of defense recorded under sec 313 of Cr. P. C.
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 27/06/13 at about 11 a.m., committed rioting in the premises of the Murajhar village Panchayat office and thereby committed punishable under sec 143 of IPC?
  - (2) Whether the accused persons had on 27/06/13 at about 11 a.m., abused the informant in a filthy language and thereby committed offence punishable under sec 294 of IPC?
  - (3) Whether the accused persons had on 27/06/13 at about 11 a.m., voluntarily caused simple injury to the informant and thereby committed offence punishable under sec 323 of IPC?
  - (4) Whether the accused persons had on 27/06/13 at about 11 a.m., criminally intimidated the informant and thereby committed offence punishable under sec 506 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, 2 and 3:**

9. For the sake of convenience, I have taken up all the points for determination together to reach at a definite conclusion. The prosecution examined four witnesses including the informant of the instant case. The defense did not adduce any witnesses.
10. PW1, Abdul Rahim Talukdar is the informant/victim. He stated that the accused were known to him. He stated that the incident took place on 27/06/13 at the village panchayat office where there was a public meeting to decide upon the construction community hall. PW1 had proposed the construction in their village whereas the accused wanted it to be constructed at Nomati Somokai Committee. Thereafter, accused Alimuddin came and caught hold of the dress of PW1 and dragged him outside and punched him in his face. Another person Abu Sahid came and caught hold of his right hand which resulted in a fracture. The other accused abused him in a filthy language. He lodged the police case later on and he was medically examined. Exhibit 1 being the ejahar and Exhibit 1(1) being his signature was proved by PW1.
11. In his cross examination, PW1 stated that he was a Congress worker whereas the accused belonged to AIAUDF party. He stated that there were around 200 people present at the meeting. He denied the suggestion that he had lodged a false case as the accused were members of a different political outfit. He denied the suggestion that he did not mention before the police that accused Alimuddin came and caught hold of the dress of PW1 and dragged him outside and punched him in his face. Another person Abu Sahid came and caught hold of his right hand which resulted in a fracture.
12. PW2, Abdul Hannan stated that on the date of occurrence there was a public meeting to decide upon the construction community hall. Informant had proposed the construction in their village whereas the other people wanted it to be constructed at Nomati Somokai Committee. PW2 stated that thereafter some people had come and caught hold of the informant but stated that he could not identify the people.
13. In his cross examination, PW2 stated that the informant was a Congress party worker whereas the accused Abdul Hannan was an AIAUDF supporter. PW2 denied the suggestion that he had stated before the police that the people present at the meeting did not support the informant and they scolded him. He denied the suggestion that he was deposing falsely.

14. PW3 Must. Anjuma Begum and PW4 Abdul Matin both stated that they were present at the meeting to decide upon the construction community hall. They both stated that the informant had proposed the construction at Murajhar Panchayat campus but the other public present opposed the informant's proposal. They both denied that any assault had taken place upon the informant or that anyone had abused him in a filthy language.

15. DECISION: In analyzing the depositions of the Prosecution Evidence, it is seen PW1 who is the informant on 27/06/13 at the village panchayat office where there was a public meeting to decide upon the construction community hall. PW1 had proposed the construction in their village whereas the accused wanted it to be constructed at Nomati Somokai Committee. Thereafter, accused Alimuddin came and caught hold of the dress of PW1 and dragged him outside and punched him in his face. Another person Abu Sahid came and caught hold of his right hand which resulted in a fracture. The other accused abused him in a filthy language. However in the ejahar the informant had not mentioned that anyone had assaulted him. He had merely alleged that the accused persons had abused him in a filthy language in the presence of the public. Accused Alimuddin grabbed the informant by the collar and tried to assault him. Clearly, there is a great deal of exaggeration in the evidence of PW1. The question arises that if Abu Sahid had assaulted the informant which led to a fracture in his right hand, then why the informant omitted to name Abu Sahid in the ejahar or the fact that he had sustained a fracture. PW2 had stated that the public in the meeting had opposed the proposal of the informant and some of the people had attacked him but PW2 has not been able to identify the assailants. PW3 and PW4 who are independent witnesses had clearly stated that there was no assault on the informant and in fact it was the informant who had caused an unruly situation by opposing the general public opinion of construction of the community hall at a venue different to that proposed by the informant. PW3 and PW4 are independent witnesses and there is no reason to doubt the version adduced by them. Clearly, the informant and the accused persons are both workers of two different political parties and their ideological differences has spilled over even in a public platform. The informant it appears has made a mountain out of a mole hill and his evidence suffers from gross exaggeration which makes him unbelievable. Hence after considering the Prosecution evidence in its entirety, all the points 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 persons; as such the accused Alimuddin, Moinuddin, Abdul Mannan, Abdul Salam, Afzal Hussain and Azaruddin are held not guilty of the charge under section 143/294/323/506 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 12<sup>th</sup> day of April, 2017 at Hojai.

BiswadeepBaruah,  
Judicial Magistrate First Class, Hojai.

**APPENDIX:**

**WITNESS FOR THE PROSECUTION:**

**PW1      Abdul rahim Talukdar**

**PW2      Abdul Hannan**

**PW3      Anjuma Begum**

**PW4      Abdul Matin**

**WITNESS FOR THE DEFENSE: NONE**

**EXHIBITS:**

**EXHIBIT 1    EJA HAR**

**EXHIBIT 1(1) SIGNATURE OF PW1**