

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE _____ : _____ JORHAT.

PRESENT : Md. Manwar Ali, M.A., LL.B., A.J.S.

Chief Judicial Magistrate, Jorhat.

Ref. : G.R.Case No. 528 of 2007.

State -vs-

1. Ananta Bora and

2. Srimanta Bora Accused.

U/s 341/323/34 I.P.C.

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| Offences explained on | | 26.03.2009. |
| Evidence recorded on | | 18.09.2009; 21.11.2009; 19.08.2011. |
| Statement recorded on | | 23.08.2011. |
| Arguments heard on | | 18.11.2011. |
| Judgment delivered on | | 22.11.2011. |

JUDGMENT

1. The prosecution initiated this case on receipt of an ejahar at Bhogdoi police outpost under Jorhat police station filed by one Chandan Moni Neog, son of Rudra Kanta Neog of Teok Rajabari, under Teok police station in the district of Jorhat, alleging that on 13.05.2007 the accused the informant to his house, assaulted the informant inside his house and also snatched away cash amount of Rs. 5,300/- (Rupees five thousand three hundred), one mobile phone and other documents.

2. The In-charge of Bhogdoi police outpost vide G.D. Entry No.252 dated 13.05.2007, forwarded the ejahar to the Officer-in-charge of Jorhat police station for registering a case and on receipt of the same, the Officer-in-charge, Jorhat police station, registered a case as Jorhat P.S. Case No. 269/07 u/s 294 of I.P.C. and endorsed Pradip Kalita, S.I. of police, to take up the investigation of the case. After completion of the investigation, the accused persons, namely Ananta Bora and Srimanta Bora were charge sheeted u/s 341/323/34 of I.P.C. On appearance of the accused persons the necessary copies were furnished to them u/s 207 Cr.P.C. and after hearing both sides and perusal of

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the record a prima facie case was made out by my learned predecessor u/s 341/323/34 of I.P.C. against the accused persons. The particulars of offences u/s 341/323/34 of I.P.C.were read over and explained to the accused by my learned predecessor to which the accused persons pleaded not guilty and claimed to be tried.

3. The prosecution, in support of its case, examined as many as five witnesses who were cross-examined by the defence. Defence did not adduce any evidence. The statement of the accused was recorded u/s 313 Cr.P.C. The plea of the defence was denial. Heard the arguments of both sides,

POINTS FOR DETERMINATION:

4. (I) Whether the accused persons, in furtherance of common intention, wrongfully restrained informant Chandan Moni Neog as alleged on the relevant date and time and thereby committed offence u/s 341/34 of I.P.C. ?
- (ii) Whether the accused persons, in furtherance of common intention, assaulted informant Chandan Moni Neog as alleged on the relevant date and time and thereby committed offence u/s 323/34 of I.P.C. ?

DECISION, DISCUSSION AND REASONS THEREOF :

5. P.W.1 Makhan Bora has stated that the accused is his relative. P.W.1 does not know the informant. P.W.1 does not know anything about the incident. Dthe cross-examination of P.W.1 was declined by the defence.

6. P.W.2 Bitupan Bora lhas stated that accused Diganta Bora is his elder brother and accused Ananta Bora is his younger brother. P.W.2 also does not know the informant. There was an altercation between the accused and the informant in connection with a Maruti Van. Cross-examination of P.W.2 is also declined by the defence.

7. P.W.3 Arup Boruah dhas stated that he knows the accused. He also knows the complainant. There was an incident of assault between both the parties. P.W.3 does not know the reason for the incident. Many suggestions were put by the defence during

cross-examination of P.W.3 which were denied by him.

8., P.W.4 Dr. Mintu Kumar Gogoi has stated that on 13.05.07 he was posted at J.D.S. Civil Hospital, Jorhat, as S.D.M. & H.O. On that day, at about 6.10 p.m. he examined one Chandan Moni Neog on police requisition and found pain and tenderness all over his body, pain and restricted movement of neck etc. P.W.4 opined that the injuries were simple in nature and caused by blunt weapon. In his cross-examination P.W.4 has further stated that such injuries cannot be caused by falling over any hard substance.

9., P.W.5 Pradip Kalita, S.I. of police, dhas stated that on 13.05.2007 he was posted as In-charge of Bhogdoi police outpost under Jorhat police station. On that day, one Chandan Moni Neog lodged an ejahar and making G.D. Entry the same was forwarded to the Officer-in-charge of Jorhat police station for registering a case. P.W.5 was endorsed to take up the investigation and accordingly P.W.5 visited the place of occurrence and recorded the statements of witnesses. P.W.5 also prepared the sketch map of the place of occurrence. He also sent the injured to hospital for his medical treatment and after completion of investigation submitted charge sheet against the accused persons u/s 341/323/34 of I.P.C. The cross-examination of P.W.5 was also declined by the defence. The prosecution has not examined other independent and interested witnesses in this case. It also appears from the record that the prosecution has not examined the victim/informant in this case.

10. I have carefully sifted the evidence on record. After careful appreciation of the evidence on record, I have found that the prosecution has failed to establish the offence u/s 341/323/34 of I.P.C. against the accused persons. The ingredients of the offences u/s 341/323/34 of I.P.C. have not been proved against the accused persons. The evidence of P.W.3 has not also been corroborated by other witnesses. Hence, the accused persons, namely Ananta Bora and Srimanta Bora are acquitted from charges/offences u/s 341/323/34 of I.P.C. for the interest of justice on the ground of benefit of doubt and set them at liberty forthwith. Their bailors stand discharged from the liability.

11. The judgment is pronounced in the open Court under my hand and seal of this Court on this 22nd day of November, 2011.

Chief Judicial Magistrate,

Jorhat.

Dictated & corrected by me :

Chief Judicial Magistrate,

Jorhat.

Transcribed & typed by :-

P.K.Bora,

Stenographer.