

**Sessions Case No. 43 (M)/2012.**

U/S 341/324/323/307 IPC

State

Vs

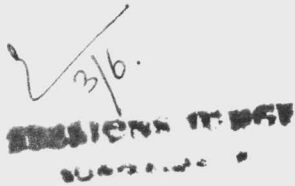
1. Sri Santosh Das @ Tepela Das ....Accused

**PRESENT : Smt. M. Nandi,  
Sessions Judge,  
Bongaigaon.**

**ADVOCATES APPEARED : Sri A. K. Nath, Public Prosecutor  
for the State.  
Sri A. Ali, Advocate  
for the accused.**

Date of Argument : 20.05.2013.

Date of Judgment : 03.06.2013.

A handwritten signature and a stamp. The signature appears to be 'S/B.' and the stamp is partially legible, showing 'SESSIONS JUDGE' and 'BONGAIGAON'.

**JUDGMENT AND ORDER**

1. The prosecution case, in brief, is that the informant Sri Braja Mohan Ray lodged an ejahar before the O.C. Manikpur Police Station stating inter-alia that on 04.10.2011 at about 10.30 PM while his cousin Samiran Roy along with his two friends were going towards Chakihali Puja pandel to watch Durga Puja and when they reached in front of the Puja pandel, the accused Tepela Das, Binod Das and Swapan Das restrained his way and accused Tepela Das gave a blow with a dagger causing injuries to his abdomen. While the friends of his cousin Kishore Roy intervened, he also received injury on his hand. After the incident his cousin fell o the ground and blood was oozing out from his injuries. He was taken to Manikpur P.H.C. by 108 Ambulance. Later on, he was shifted to Lower Assam Hospital for better treatment. After the incident, accused had left the place.

2. On receipt of the ejahar, police registered a case and after completion of investigation submitted charge sheet against the accused Santosh Das @ Tepela Das. During trial the accused person put his appearance before the court and he was enlarged on bail. Charge was framed U/S 341/324/323/307 IPC which was read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

3. In this case, prosecution examined 10 (ten) witnesses and the defence examined none. The plea of the defence is the plea of denial.

4. **Points for determination:**

1. *Whether the accused person on 04.10.2011 at about 10.30 PM at Chakihali Bazar under Manikpur P.S. wrongfully restrained Samiran Roy and Kishore Ray and thereby committed an offence U/S 341 IPC ?*

2. *Whether the accused person on the same day, time and place voluntarily caused grievous hurt to Samiran Roy by means of a dagger, an instrument for stabbing and thereby committed an offence U/S 326 IPC ?*

3. *Whether the accused person on the same day, time and place voluntarily caused hurt to Kishore Ray and thereby committed an offence U/S 323 IPC ?*

4. *Whether the accused person on the same day, time and place did an act i.e. causing grievous hurt to Samiran Roy with such intention and such circumstances that if by that act the accused caused the death of Samiran Roy, then he would have been guilty of murder and thereby committed an offence U/S 307 IPC ?*

**DECISION AND REASONS THEREOF**

5. To arrive at just decision of the case, let me consider the evidence of the witnesses.

6. PW 1 is the informant Braja Mohan Ray. He deposed in his evidence that he knew the accused Tepela who is also called Santosh by name. On the date of occurrence, he was watching Durga Puja at Chakihali. At that time having heard hue and cry, he went to the spot and found that three persons brought Samiran from the Puja pandel. He had seen injury on the abdomen of Samiran. Blood was oozing out from his injuries. Immediately he was taken to

