

IN THE COURT OF SESSIONS JUDGE ::::::::::::::: BONGAIGAON.

Sessions Case No. 14(BGN)/2010

State

Vs.

1. Rukmal Ch. Nath @ Rustom Nath
2. Dipak Das @ Gajen Nath
3. Hitesh Das

----- Accused.

U/S 341/326/307/34 I.P.C.

R/W Section 27 of Arms Act.

**Present:- Smt. M. Nandi,  
Sessions Judge,  
Bongaigaon.**

*Appearance:- Mr. A.K. Nath,  
P.P. for the state.*

*Mr. H. Das,  
Mr. P. Baidya,  
Mr. T. Das, Advocates  
for the accused.*

Date of argument : 12.11.2012.

Date of judgment : 22.11.2012.

**JUDGMENT AND ORDER**

1. The prosecution case, in brief, is that the informant Sri Pani Ram Sarkar lodged an ejahar before the O.C., Bongaigaon Police Station stating inter alia that on 03.03.2007 at about 6.30 PM, when his younger brother Paban Sarkar was going towards Bongaigaon town, two nos. of miscreants came in a motor cycle, suddenly attacked him in M.G. Road, Bongaigaon near 'Barnali Studio' and gunned him down with a pistol causing injury on his head and abdomen. After the incident the victim was taken to Bongaigaon 30 bedded Rural Hospital for treatment. As his condition became more serious, he was taken to Bongaigaon Lower Assam Hospital for better treatment.

2. On receipt of the ejahar, police registered a case and after

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Sessions Judge  
Bongaigaon


(2)

completion of investigation submitted charge-sheet against the accused Dipak Das @ Gajen Nath, Hitesh Das and Rukmal Ch. Nath @ Rustom Nath U/S 341/326/307/34 of IPC read with Section 27 of the Arms Act. During trial the accused persons put their appearance before the Court and they were enlarged on bail. Charge was framed U/S 341/326/307/34 of IPC read with Section 27 of the Arms Act which was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

3. In this case prosecution examined 16 witnesses and the defence examined none. The plea of the defence is the plea of denial.

4. **Points for decision:**

1. *Whether the accused persons on 03.03.2007 at about 6.30 PM when the victim Paban Sarkar was coming home on foot in front of 'Barnali Studio' had wrongfully restrained Paban Sarkar in furtherance of common intention to attack him and thereby committed an offence U/S 341/34 of IPC ?*
2. *Whether the accused persons on the same date, time and place voluntarily caused grievous hurt to Paban Sarkar by shooting at him by pistol which is an instrument for shooting in furtherance of common intention of all and thereby committed an offence U/S 326/34 of IPC ?*
3. *Whether the accused persons on the same date, time and place attempted to cause death of Paban Sarkar and under such circumstances if by their act death of Paban Sarkar was caused they would have been guilty of murder and they had actually caused hurt to Paban Sarkar and thereby committed an offence U/S 307/34 of IPC ?*
4. *Whether the accused persons on the same date, time and place had used a pistol to inflict injury on Paban Sarkar in contravention of Section 5 and 7 of the Arms Act and thereby committed an offence U/S 27 of Arms Act ?*

  
Sessions Judge  
Bhubaneswar

