

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE :::: BONGAIGAON.**

**CR Case No.196/2012.**

*U/Ss. 341/323 IPC.*

**Smt. Kanak Bala Ray**  
*.....Complainant.*

-Vs-

**Sri Bipul Sarkar**  
*.....Accused person.*

*Present: Sri A. U. Ahmed, AJS,*  
*Chief Judicial Magistrate,*  
*Bongaigaon.*

**Advocates appeared:**

For the Prosecution: *Mr. Tapan Das.*

For the Defence: *Mr. Hareswar Das.*

Date fixed for Argument: ***04.06.2013.***

Date fixed for Judgment: ***11.06.2013.***

**J U D G M E N T**

1. The prosecution case in brief is that on 09.07.2011 at about 8:00 PM while the complainant was going towards the house of one Arati situated at Khoka Colony of Bagan Road the accused person alongwith his wife restrained her on the road abused her and assaulted her as a result she sustained serious injuries. On hearing of her shouting the neighbouring people came to the PO and rescued her from the hands of the accused

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person. Thereafter, she immediately came to the police station and apprised police officer present in the PS of the occurrence and said police officer got him medically examined. As she was under treatment on 10.07.2011 to that effect she lodged a written ejahar with Bongaigaon PS. On receipt of the same a criminal case was registered U/Ss.341/325/294 IPC and started investigation. On completion of the investigation FR was submitted. On receipt of notice in respect of acceptance of the FR, the complainant appeared before the Court and filed a Naraji petition objecting the FR submitted by the police. On the strength of the Naraji petition the case was re-numbered as a CR case. After making due inquiry U/S.200 & 202 of the CrPC cognizance was taken under sections 341/323 of the IPC against the accused person. Hence, the prosecution has come up.

2. On completion of appearance of the accused person, taking of evidence for charge was started. The particulars of the offence U/Ss.341/323 IPC is duly explained to the accused person to which he pleaded not guilty and claimed to be tried.

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3. During the trial, prosecution has examined as many as 3(three) witnesses. The accused person has been examined U/S.313 CrPC. Defence has examined none. The plea of defence is of total denial.

4. : **POINT FOR DETERMINATION** :

***(a) Whether the accused person committed the offence U/Ss.341/323 IPC?***

5. : **DECISION AND REASONS THEREOF** :

I have very carefully gone through the marathon threadbare arguments duly advanced by the Ld. Advocates of the both sides. Now, let us see the evidence on record.

6. PW1 is the complainant Smt. Kanan Bala Ray. This is the case in respect of the occurrence took place on 09.07.2011 at 8:30 PM. According to ejahar on 09.07.2011 at 8:30 PM while the complainant was going towards the house of one Arati situated at Khoka Colony of Bagan Road, the accused person along with his wife restrained her on the road abused her and assaulted her as a result she sustained injuries. The complainant marked as PW1 has stated in her evidence that on 09.07.2011 at 7:00 PM she came to the Saha Tailors to met the

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accused person and then while she asked the accused person to repay Rs.10,000/- which he took from her, the accused person by holding of her neck took out her to the road and fell down her there. On 09.07.2011 while she was on the way to going towards her Aunti's house situated at Khoka Colony the wife of the accused person assaulted her with handmade fan as a result she sustained injury on her left eye.

7. PW2 is Hemanta Ray. According to him the occurrence took place on 27.08.2011 at 8:00PM while he was standing in the Bata Corner for purchasing some cloth and she saw the accused person gave blow the informant and saw strangulating her.

8. PW3 is Haripada Das. He has stated in his testimony that the occurrence took place on 09.07.2011. While at the time of occurrence he was going on the road chanting name of Hari he saw the accused person assaulted the complainant while she demanded the money refundable to her by the accused person. The said occurrence took place near the house of the accused person. Thereafter he took the accused person to the temple of Gauriya Math.

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9. This is a case in respect of the occurrence took place on 09.07.2011 at 8:00 PM. In respect of the aforesaid occurrence PW2 is silent. PW2 has given another story which was taken place on 27.08.2011 at Bata Corner. The evidence of PW3 shows that at the time of occurrence on 09.07.2011 the accused person assaulted the informant. His evidence is totally silent at the time of occurrence in the PO the wife of the accused person Sumita Sarkar was present and assaulted the informant with handmade fan. From his cross-examination it appears that the informant is one of the devotees who used to take part in performing of Kirtan with them. Considering all aspects, I find there is a doubt that PW3 saw the occurrence in question. According to informant, on 09.07.2011 at 7:00 PM she came to the Saha Tailors to meet the accused person and while she demanded an amount of Rs.10,000/- refundable to her by the accused person he took her to the road and felled her thereon by strangulating her. In view of the discussion made above, I find evidence of PW1 to PW3 is not free from doubt.

10. *In the result, I find the prosecution has failed to prove its case beyond all reasonable doubts. Hence, on*

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*benefit of doubt the accused person is hereby acquitted from the charges leveled against him and let him be set at liberty forthwith. The bail bond stands cancelled. Accordingly, this case is disposed of on contest.*

11. The Judgment is pronounced and delivered in the open Court on this 11<sup>th</sup> June, 2013 under my hand and seal of this Court.

*(Sri A.U. Ahmed)*

**Chief Judicial Magistrate,  
BONGAIGAON.**

*Dictated & corrected by me.....*

**(Sri A. U. Ahmed)  
Chief Judicial Magistrate  
BONGAIGAON.**

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