

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

**GR CASE No. 604/2011.**

**U/Ss.341/323/34 IPC.**

**State of Assam**

**-Vs-**

**1. Mokbul Hussain**

**2. Saddam Mandal.**

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

**Name of the informant:**

*Md. Mohesh Ali,  
S/O Late Rahman Ali,  
Vill- No.2 Sanyashi Bari,  
PS-Dhaligaon, Dist- Chirang.*

**Advocates appeared:**

For the Prosecution: **Mr. T. Bhowmick, Assistant PP.**  
For the Defence: **Mr. N.I. Siddique.**

Argument heard on: **27.06.2013.**

Judgment pronounced & delivered on: **27.06.2013.**

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

1. The prosecution case in brief is that on 30.08.2011 at 6:00 PM while the informant was shopping at Chaprakata railway market the accused persons suddenly attacked and assaulted him as a result he sustained injury on head, chest and rest part of his body. During the assault he could not say whether Rs.1500/- was stolen away or lost from his pocket. The local people assured him that they

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would settle the matter as such delay of filing in ejahar took place. On 06.09.2011 the matter was informed to North Bongaigaon PP and North Bongaigaon PP got him medically examined. He was threatened to be killed. On 13.09.2011 the informant to that effect lodged written ejahar with North Bongaigaon PP and the same was sent to the Bongaigaon PS for registering a criminal case. On receipt of the written ejahar, Bongaigaon PS registered a criminal case vide Bongaigaon PS Case No. 447/2011 under sections 341/323/506 IPC and started investigation. On completion of investigation, the charge-sheet was submitted under sections 341/323/34 IPC against the accused person. Hence the prosecution case has come up.

2. On completion of appearance of the accused person, copy was supplied to him. The particulars of the offence U/Ss.341/323/34 IPC is duly explained to the accused persons to which they pleaded not guilty and claimed to be tried.

3. During the trial prosecution has examined as many as 4(four) prosecution witnesses. The accused persons have been examined under section 313 CrPC. The defence has examined none. The plea of defence is of total denial.

4. **:POINT FOR DETERMINATION:**  
***(a)Whether accused persons committed the offence U/Ss.341/323/34 IPC?***

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

I have very carefully gone the arguments duly advanced by the Ld. Lawyers of both sides as well as evidence on record. Now, let me discuss the evidence on record.

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6. PW1 is the injured-cum-informant who has stated in his testimony that the occurrence took place in the year 2011 at 3:30 PM while he asked the accused Saddam Hussain finding him near the Chaprakata railway gate to pay the money payable to him, the accused person restrained and assaulted him with wrench. The rest accused person caught him while he was assaulting. Due to assault his one tooth was broken and he sustained injury on his forehead. Immediately he was brought to the hospital. PW2 is Kamal Dutta and PW3 is Uttam Dutta. Both of them clearly stated in their evidence that they had no regarding the occurrence. PW4 Md. Jinnat Ali whose evidence shows that he had not seen the occurrence. He was told by the injured-cum-informant that he (informant) was assaulted by accused Saddam. His evidence is totally silent regarding participation of the rest accused persons in the alleged occurrence. PW4 has also stated that he took the informant to the hospital for treatment. Evidence of PW4 who took the injured person to the hospital is totally silent that one tooth of the injured-cum-informant was broken. Apart from this injury report shows that no injury was found in the person of the informant.

7. There is no evidence on record showing that the occurrence was brought to the knowledge of the village elderly people for settlement. It is found that the occurrence took place on 30.08.2011 and formal ejahar was filed on 13.09.2011. It has become crystal clear that the entire prosecution case rest on the

evidence of PW1. After close examination of the evidence on recorded and discussion made above I find evidence of PW1 is not free from doubt.

8. *In the result, I find that the prosecution has failed prove to prove its case against the accused persons beyond all*

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*reasonable doubts. Hence on benefit of doubt, the accused persons are hereby acquitted from the charges brought against them and let them be set at liberty forthwith. The bail bonds stand cancelled. Accordingly, the case is disposed of on contest.*

9. The Judgment is pronounced and delivered in the open Court on this 27<sup>th</sup> June, 2013 under my hand and seal of this Court.

Magistrate,

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

BONGAIGAON.

Dictated and corrected by me.....

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