

BEFORE THE JUVENILE JUSTICE BOARD, BONGAIGAION

**PRESENT: S. HANDIQUE, PRINCIPAL MAGISTRATE, JJB,
BONGAIGAON**

MEMBERS:

Mr. D. C. Basak

Mrs. R. Choudhury

JJB Case no. 28/13

Dhaligaon P.S. Case no. 138/12

G.R. 465/12

(u/s 147/148/341/323/427/435/511/506 IPC)

State

v.

1. Eushup Ali

2. Anowar Hussain Ahmed

For prosecution: Mr. T. Bhowmik, APP

For defence: Mr. S. Alam, Advocate

Evidence recorded on: 24-2-15, 28-4-15, 14-5-15

Juveniles examined u/s 313 Cr. P.C on: 28-5-15

Arguments heard on: 28-5-15

Final dispositional order passed on: 28-5-15

FINAL DISPOSITIONAL ORDER

1. The prosecution was set into motion on the basis of an FIR filed by Ananta Nath before the O/C, Dhaligaon P.S. on 5-8-12. The informant stated that he is a conductor of a bus bearing no. AS-16 C-2057 run by

Bodoland Transport Corporation and on 5-8-12 the bus was heading towards Odalguri from Kokrajhar. As the bus was approaching Bortola Railgate at about 8.30 A.M., about 100/120 unidentified persons stopped the bus and five/seven persons boarded the bus and assaulted the driver and passengers. He alleged that the miscreants also pelted stones at the bus and broke the glasses and tried to set fire to the bus. The FIR was registered as Dhaligaon P.S. Case no. 138/12 u/s147/148/341/325/326/435/511/427/506 IPC and after investigation separate charge sheet was filed against juveniles Esub Ali @ Eushup Ali and Anowar Hussain. Meanwhile, the juveniles were forwarded to the Juvenile Justice Board, Bongaigaon and they were released on bail.

2. After filing of the charge sheet, the juveniles were summoned and necessary copies were furnished to them. The particulars of offence u/s 147/148/341/323/427/435/511/506 IPC were explained to the juveniles to which they pleaded not guilty and claimed trial.
3. During inquiry six witnesses were examined including the informant. The juveniles were examined u/s 313 Cr. P.C. which is of total denial. No defence evidence is adduced. Heard arguments from both the sides.
4. The following points for determination have been framed:

POINTS FOR DETERMINATION:

1. *Whether the juveniles constituted an unlawful assembly and in prosecution of the common object of the assembly caused rioting by using dangerous weapons and thereby committed an offence punishable u/s 147/148 IPC?*
2. *Whether the juveniles constituted an unlawful assembly and in prosecution of the common object of the assembly wrongfully restrained the complainant and other passengers of the bus bearing registration no. AS-16-C-2057 and thereby committed an offence punishable u/s 147/341 IPC?*
3. *Whether the juveniles constituted an unlawful assembly and in prosecution of the common object of the assembly assaulted the driver and passengers of the bus bearing registration no. AS-16-C-2057 and thereby committed an offence punishable u/s 147/323 IPC?*

4. *Whether the juveniles constituted an unlawful assembly and in prosecution of the common object of the assembly broke the glass of the bus bearing registration no. AS-16-C-2057 and thereby committed an offence punishable u/s 147/427 IPC?*
5. *Whether the juveniles constituted an unlawful assembly and in prosecution of the common object of the tried to set fire to the bus bearing registration no. AS-16-C-2057 and thereby committed an offence punishable u/s 147/435/511 IPC?*
6. *Whether the juveniles constituted an unlawful assembly and in prosecution of the common object of the assembly criminally intimidated the driver and passengers of the bus bearing registration no. AS-16-C-2057 and thereby committed an offence punishable u/s 147/506 IPC?*

DISCUSSIONS, DECISIONS AND REASONS THEREOF:

DECISION ON POINT NO. 1 - 6 :

5. For sake of convenience all the points are taken up together for discussion. The allegation against the juveniles is that they were part of an unlawful assembly which stopped a bus and assaulted the driver, passengers and caused mischief by damaging the bus. Let us examine the evidence as adduced by the prosecution witnesses. The most vital witnesses in this case are the complainant (conductor) and the driver.
6. **Ananta Das**, the complainant was examined as **PW6**. He deposed that the alleged incident took place in 2012 at Bortola Rail gate while he was travelling by bus no. AS-16-C-2057. He stated that several persons attacked his bus and driver Upraj Musahary (PW5). According to him, the miscreants broke the rear glass of the bus and the driver had to be rushed to the hospital. He exhibited the FIR as Ext. 1. He deposed that he could not identify any of the miscreants.
7. **PW5 is Upraj Basumatary** who was the driver of the ill-fated bus. He deposed that he was driving the bus towards Odalguri with about ten passengers. At about 8/ 8.30 A.M. as the bus reached Bortola Rail gate, he saw several people. Two people asked him to turn back and he turned

his vehicle. But several persons boarded the bus and started assaulting them and damaged the bus. According to him, he drove the bus towards the nearby army camp and he became senseless. He deposed that he could not identify the miscreants and he cannot recognise them now also. He denied his knowledge if Ananta lodged the FIR.

8. **PW1 Anowar Mandal** deposed that the alleged incident occurred during the BTAD conflict. He stated that the bus was stopped in front of his shop and he heard hue and cry. According to him, several persons had assembled there and the police had to open fire. He stated that he did not see the juveniles at the place of occurrence and he does not recognise them.
9. **PW2 Mannaf Ali** deposed that he does not recognise the juveniles. According to him, he saw the bus near his house after returning home from work. He came to know that someone burned down the bus.
10. **PW3 Jayanta Aich** deposed that the alleged incident happened in 2012 during Bodo agitation. According to him, he was at his shop at the relevant time. His wife informed him over phone that someone burnt down a bus in front of his house. He does not know who were involved in the incident.
11. **PW4 Pradip Aich** deposed that he heard that a bus was burnt down near his ancestral home. He was not present at the spot.
12. Thus from the testimony of the PWs, it is seen that none of the witnesses saw the juveniles at the place of occurrence. The driver and conductor of the ill-fated bus could not identify the miscreants who damaged the bus and assaulted them. It has however been proved that the bus bearing regd. No. AS-16-C-2057 was stopped at Bortola Railgate by some unidentified persons and it was damaged. The driver of the bus (PW5) was assaulted by that group of people. However, the involvement of the juveniles with the alleged crime is not proved beyond doubt. In fact there is not an iota of evidence against these two juveniles. All the six points are decided in the negative.
13. In view of the above discussions, we find that there are no materials to hold the juveniles guilty of the offence alleged. Therefore, they are acquitted of the charge u/s 147/148/341/323/427/435/511/506 IPC and

set at liberty forthwith. Bail bonds stand discharged as per law. Given under the hand and seal of the Board on 28-5-15.

S. Handique,
Principal Magistrate, JJB, Bongaigaon

Members:

Mr. D. C. Basak

Mrs. R. Choudhury

APPENDIX

PROSECUTION EVIDENCE

PW1..ANOWAR MANDAL

PW2..MANNAF ALI

PW3..JAYANTA AICH

PW 4..PRADIP AICH

PW5..UPARAJ MASHAHARY

PW6..ANANTA DAS

EXHIBIT

EXT. 1..FIR

DEFENCE EVIDENCE ..NONE