

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, BONGAIGAON

PRESENT: SYEDA FARIDA AFZAL ZINNAT

G.R CASE NO: 279/2012

STATE OF ASSAM VERSUS BAPPI SARKAR AND OTHERS

FOR THE PROSECUTION: MR. R.C.MAHATO, LEARNED ASST. P.P

FOR THE DEFENCE: MR. A.K.DEKA, LEARNED ADVOCATE

EVIDENCE RECORDED ON: 24.9.2014

ARGUMENTS HEARD ON: 24.9.2014

JUDGMENT DELIVERED ON: 24.9.2014

### **JUDGMENT**

1. The facts and circumstances leading to the instant case as stated by the Prosecution in brief is that on 14/5/2012 the informant Sri Ratnaraj Baruah lodged an FIR with Sidli P.S. alleging that on the same day at about 6.45 pm in his absence about fifteen youth came in five motor cycles and tried to take away his daughter. When his son reached home the group of boys attacked him sharp weapon from behind and caused severe injury on his head. On raising alarm neighbouring people apprehended one boy from the group and handed him over to Police at Sidli P.S. the FIR was received and registered as Sidli P.s Case No. 17/2012 u/s 143/448/366/511/326 IPC and was duly registered and investigated upon. During investigation a prima

facie case was found to be well established under sections 143/448/323 IPC against the accused persons named Bappi Sarkar, Purajit Sarkar, Tapash Sarkar, Dipu Barman and Bapan Ray.

2. Cognizance was been taken U/S 143/448/323 IPC against the accused persons by leaned C.J.M, Bongaigaon and the case was transferred to this Court for disposal.
3. Upon appearance copies of the relevant documents were supplied to the accused persons in compliance with section 207 Cr.P.C.
4. After considering the relevant documents produced by the police I found prima facie material under sections 143/448/323IPC against the accused persons. Accordingly particulars of the offences were explained to the accused persons to which they pleaded not guilty and claimed to be tried.
5. Prosecution adduced the evidence of only two witnesses. The examination of the accused persons under section 313 Cr.P.C was dispensed with after going through the evidence on record.
6. After considering the relevant documents and after hearing the defence and the prosecution I find that following are the points to be determined in this case:
  - 1) Whether the accused persons were members of an unlawful assembly, the common object of which was to commit house trespass and to assault the son of the informant and thereby committed an offence punishable U/S 143 IPC?
  - 2) Whether the accused persons criminally trespassed into the house compound of the informant and thereby committed an offence punishable under section 448 IPC?

- 3) Whether the accused persons voluntarily caused injury to the son of the informant and thereby committed an offence punishable under section 323 IPC?

DISCUSSION ON EVIDENCE, DECISION AND REASONS THEREOF:

7. PW1 Ratnaraj Barua aged about 45 years who is also the informant of the case was examined by the prosecution. From his evidence it could be ascertained that the informant and the accused persons are neighbours. On the date of occurrence the accused persons quarrelled with the son of the informant and out of anger in heat of the moment the FIR was lodged. But now the matter has been amicably settled between them and so he does not want to drag the case further.
8. PW2 Jitul Barua is the victim and he stated that there was a quarrel between him and the accused persons and that he received injury by falling down on the courtyard.
9. It is seen that there is no incriminating evidence against the accused persons. Therefore the accused persons are found to be not guilty and hence they are acquitted.

**Order**

The accused persons namely Bappi Sarkar, Purajit Sarkar, Tapash Sarkar, Dipu Barman and Bapan Ray are hereby acquitted of the offences U/Ss 143/448/323 IPC. Bail Bonds are extended to a period of six months. Given under the hand and seal of this court on this the 24<sup>th</sup> day September 2014.

Syeda Farida Afzal Zinnat, AJS

J.M. F.C. BONGAIGAON

APPENDIX:

LIST OF EXHIBITS:

1. Exhibit 1: FIR
2. Exhibit 1(1): Signature of PW1

LIST OF WITNESSES:

1. PW1: Ratnaraj Barua
2. PW2: Jitul Barua

