

MGR case no. 226/12

**IN THE COURT OF SUB-DIVISIONAL JUDICIAL MAGISTRATE(S),
BONGAIGAON**

PRESENT: DR. N.C. BHUYAN, AJS

MGR case No. 226/12

U/S- 448/324/323/506 I.P.C.

State

-Vs.-

Yakat AliAccused person.

In appearance

For prosecution : Shri S. K. Nath, Ld. A.P.P.
For defence : Mr. D. A. Rahim, Ld. Advocate.

Evidence recorded on : 7-12-16
Arguments heard on : 30-12-17
Judgment delivered on : 30-12-17


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JUDGMENT

1. The case of prosecution in brief is that on 22-05-12, one Sahida Begum lodged one FIR before the Officer-in-Charge of Manikpur Police Station and informed that that at about 5:00 AM, on 22-05-12 accused Yakat Ali and accused Kodbhanu Bibi entered into the house of the informant and started to cause damage to the articles of their house and when the husband of the informant resisted the accused person from causing damage then accused Kodbhanu gave one dao to accused Yakat Ali and accused Yakat Ali gave one dao blow in the head of the husband of the informant in order to kill the husband of the informant. As a result the husband of the informant got cut injury in his head. When the informant went to save her husband, both the accused person started to beat the informant and her husband and caused injury to them. Later on, neighbours came and rescued the informant and her husband from the accused person and with the help of 108 Ambulance, they were sent to Bongaigaon Civil Hospital. The husband of the informant got 12 stitches in his head and hence, the instant case.
2. On receipt of the FIR, O/C, Bongaigaon P.S. registered a case vide No. 99/12, u/s 448/324/506/34 IPC and the matter was duly investigated into.
3. On completion of the investigation, I/O submitted charge-sheet against accused Yakat Ali. In due course, the accused person appeared before the Court and he was allowed to go on bail. Copies were furnished and the charge u/s 448/324/323/506 I.P.C. were framed and read over and explained to the accused person and to which he pleaded not guilty and claimed to be tried.
4. In support of the case of the prosecution, four PWs were examined. Accordingly, the prosecution evidence was closed. The statement of the accused u/s 313 Cr.P.C. was dispensed with as no implicating




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material was found against the accused person. Heard the arguments of both sides.

POINTS FOR DETERMINATION

5. Whether accused Yakat Ali on 22-05-12 at about 5:00 AM at Jaraguri village committed criminal trespass in the house of Sahida Begum and, thereby, committed an offence punishable under Section 448 IPC?
6. Whether accused Yakat Ali on the same day, time and place voluntarily caused simple hurt to Akidul Islam on his head by means of a sharp weapon i.e. dao and, thereby, committed an offence punishable under Section 324 IPC?
7. Whether accused Yakat Ali on the same day, time and place voluntarily caused simple hurt to Sahida Begum and, thereby, committed an offence punishable under Section 323 IPC?
8. Whether accused Yakat Ali on the same day, time and place criminally intimidated the victims and, thereby, committed an offence punishable under Section 506 IPC?

DISCUSSION, DECISION AND REASONS THEREOF

9. The P.W.1 (Mohasen Ali) in deposed that he knows both the parties but he does not know about the incident.

The cross-examination of PW1 was declined by the defence.

10. PW2 (Anowar Ali) deposed that he knows both the parties but he does not know about the incident.

The cross-examination of PW2 was declined by the defence.



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11. PW3 (Subhan Ali) deposed that he knows both the parties but he does not know about the incident.

The cross-examination of PW3 was declined by the defence.

12. PW4 (Akidul Islam) deposed that his wife lodged an instant case against his father. There was domestic dispute. His father was suffering from mental illness. His wife lodged the case out of anger. He do not get any injury. He had only dispute with his father.

The cross-examination part of PW4 was declined by the defence.

13. On perusal of the evidence on record it is found that whereas PW1, PW2 and PW3 do not know anything about the incident, PW4 being the husband of the informant i.e. the victim of the instant case stated nothing against the accused. Rather, PW4 stated that his wife lodged the case out of anger and he did not get any injury. It shows clear contradictions between the statement of the victim and that of the content of the FIR and same has created doubt as to the case of the prosecution.

14. Hence, prosecution has been failed to prove the guilt of the accused beyond reasonable doubt, by adducing some cogent evidence.

ORDER

15. In view of above, I am of the opinion that the prosecution side has failed to prove the case. In result, the accused is acquitted from the charges u/s 448/324/323/506 I.P.C and set him at liberty. The bail bond shall remain in force till next six months.

16. Judgment is pronounced in the open Court.

17. The case is disposed of on contest.


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Given under my hand and seal of this Court on this 30th day of
December, 2017.



Delivered by

A handwritten signature in black ink, appearing to be "N.C. Bhuyan".

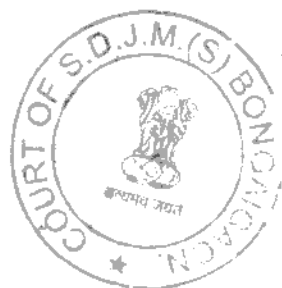
(Dr. N.C. Bhuyan)
Sub-Divisional Judicial Magistrate(S),
Bongaigaon
Sub-Divisional Judicial
Magistrate (Sadar)
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APPENDIX
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Witnesses examined by Prosecution:

PW1 - Mohasen Ali.
PW2 - Anowar Ali.
PW3 - Subhan Ali
PW4 - Akidul Islam.



Documents exhibited by Prosecution:


None.

Witnesses examined by Defence:

None.

Documents exhibited by Defence:

None.


(Dr. N.C. Bhuyan)
Sub-Divisional Judicial Magistrate(S),
Bongaigaon.

*Sub-Divisional Judicial
Magistrate (Sadar)
Bongaigaon*