

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

GR CASE No. 344/2014.

U/Ss.447/352 IPC.

State of Assam

-Vs-

Sri Biju Kr. Brahma.

Present: **Smt. N. Talukdar, AJS**
Chief Judicial Magistrate,
Bongaigaon.

Advocates appeared:

For the Prosecution: **Mr. T. Bhowmik, Assistant PP.**

For the Defence: **Mr. M. K. Wary, Miss R.R. Dutta.**

Argument heard on: **18.07.2014.**

Judgment pronounced & delivered on: **18.07.2014.**

J U D G M E N T

1. The prosecution case in brief is that, on 26.04.2014 at about 8:10 PM, the accused Biju Kr. Brahma came to the office of the ABSU and assaulted one Satyen Islary who is a member of the said organization. Hence, the informant Jaikhlone Basumatary, President of Uzan Bazar Unit Committee, ABSU lodged an FIR before the police. On the basis of FIR, Dhaligaon Police Station Case No. 64/2014 U/Ss.447/323/506 IPC was registered and investigation was set into motion. On completion of investigation, police submitted charge-sheet U/Ss.447/352 IPC against the accused person. Hence, the instant case has come up.

Contd....P/2.

GR. No.344/14.

2. On completion of appearance of the accused person, copy was furnished to him and the particulars of the offence U/Ss. 447/352 IPC were duly explained to the accused person to which he pleaded not guilty and claimed to be tried.
3. During trial the prosecution has examined only 2(two) prosecution witnesses. The examination of the accused person U/S. 313 CrPC has been dispensed with as there is no incriminating evidence against the accused person. The defence has examined none.
4. : **POINTS FOR DETERMINATION** :
 - (a) **Whether on 26.04.2014 at 8:10 PM the accused person committed criminal trespass by entering into the office of the ABSU belonging to the informant and thereby committed an offence punishable U/S. 447 IPC?**
 - (b) **Whether on 26.04.2014 at 8:10 PM the accused person assaulted or used criminal force to Satyen Islary, a member of the ABSU and thereby committed the offence punishable U/S.352 IPC?**

: **DECISION AND REASONS THEREOF** :

5. The prosecution to prove the case has examined 2(two) witnesses. PW1 is the informant Sri Jaikhleng Basumatary. In his evidence PW1 has deposed that about six months back he had an altercation with the accused person and due to misunderstanding he lodged the FIR. Ext1 is the FIR and Ext1(1) is his signature.

In cross-examination, PW1 has revealed that he has no objection on acquittal of the accused person.

6. PW2 is Sri Satyen Islary. In his evidence, PW2 has deposed that about two months back at about 7:00 PM due to

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GR. No.344/14.

Misunderstanding, an altercation ensued with the accused person. Then the informant filed the case. In cross-examination, PW2 has revealed that due to misunderstanding case was filed. PW2 has no objection on acquittal of the accused person.

7. I have carefully gone through the evidence on record and heard Ld. Counsels for both sides. It appears that PW1 and PW2, who are the material witnesses of the case, have not adduced any incriminating evidence against the accused. From their evidence, I found no ingredients of offence U/Ss. 447/352 IPC or any other section against the accused. PW1, the informant has clearly deposed that due to misunderstanding he lodged the FIR and he has also revealed that he has no objection on acquittal of the accused. Both PW1 and PW2 have been living peacefully with the accused.

8. In the result, I find that the prosecution has failed to prove its case against accused person miserably. Hence, the accused Sri Biju Kr. Brahma is found not guilty U/Ss. 447/352 IPC and hereby acquitted from the charges under said sections and set him at liberty forthwith. The bail bond of the accused stands cancelled and the bailor is discharged from the bail bond liabilities.

9. The Judgment is given under my hand and seal of this Court on this **18th day of July, 2014.**

Sd/-
(Smt. N. Talukdar)
Chief Judicial Magistrate,

BONGAIGAON.

Dictated and Corrected by me.....

Sd/-
(Smt. N. Talukdar)
Chief Judicial Magistrate,
BONGAIGAON.
