

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

**G.R. Case No. 885 of 2018**

**Under Section 341/323/34 IPC**

**Present: Smti. D. Boro, AJS,**  
**Chief Judicial Magistrate, Baksa.**

**The State of Assam** .....Prosecution.

**-Vs-**

**Pratima Medhi**.....Accused Person.

Evidence recorded on : - 22-11-2018, 22-02-2019,  
29-04-2019, 02-01-2020,  
13-03-2020.

Argument heard on : - 28-12-2022.

Judgment delivered on : - 28-12-2022.

Advocate Appeared :-

Mr. **Ranjit Basumatary**,.....A.P.P. for the State of Assam.

Mr. **Nur Alom**,..... Advocate for the accused person.

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

1. The prosecution story in brief is that on 25-02-2017 informant Alpana Sarkar lodged an FIR before I/C, Nikashi OP under Mushalpur PS to the effect that on the same day at about 7.00 am, accused Binita Medhi and Pratima Medhi had beaten the informant's younger sister Manjula Medhi by stick and sharp weapon due to family dispute and seriously injured her. Accused Binita Medhi is her sister's 'satini' (other wife of husband) and accused Pratima Medhi is her satini's daughter.  
Typed by me... Contd...

As her condition was serious, she was referred to GMCH, Guwahati.

2. Nikashi OP GD Entry No.439 dated 25/02/2017 was made in respect of the FIR. Mushalpur PS Case No. 10/2017, u/s 324/325/34 IPC was registered and investigated into. After completion of investigation, charge-sheet was submitted against the accused persons u/s 341/323/34 IPC.
3. Particulars of the offence U/s 341/323/34 IPC was framed against the accused persons and contents of the charge under the said sections were read over and explained to the accused persons to which the accused persons pleaded not guilty and claimed to be tried.
4. Accused Binita Medhi died during evidence. Hence, the case was abated against accused Binita Medhi on 28-10-2021.
5. The prosecution examined 8 (eight) nos. of witnesses and defence examined none.
6. The accused person is examined u/s 313 Cr.P.C. The accused person has declined to adduce evidence.
7. I have heard argument of the learned A.P.P. as well as the learned defence counsel and perused all the relevant documents available on record.

#### **8. POINTS FOR DETERMINATION:-**

1. Whether the accused person had in furtherance of common intention wrongfully restrained Manjula Medhi?
2. Whether Manjula Medhi had sustained hurt?

3. Whether the accused person had in furtherance of common intention voluntarily caused hurt to Manjula Medhi?

## **9. DISCUSSION, REASONS AND DECISION:**

### **10. POINT NO. 1 to 3:**

11. The essential ingredients of S.341 IPC are as follows---
  - (i) Accused obstructed a person;
  - (ii) He did it voluntarily;
  - (iii) It prevented such person from proceeding in certain direction in which he had the right to proceed.
12. PW1 Alpana Sarkar is the informant of this case. She has said that about 1 & 1/2 year ago, at about 6.00 am, while she was sleeping she heard someone assaulted her younger sister Manjula Medhi. Accordingly, she rushed to the house of her sister which is adjacent to her house. She saw accused Binita Medhi was hitting Manjula with a wooden batam (plank) and accused Gayatri Medhi was holding a dao. After seeing her, they stopped hitting Manjula. Manjula was taken to GMCH by her mother Malati Sarkar, father Dhiren Sarkar and brother Dulal Sarkar. She filed the FIR at Nikashi OP. Ext.1 is FIR.
13. PW2 Puspa Adhikary is independent witness. She has said that the informant and the accused are her neighbours. On 25-02-2017 at around 6.00 to 7.00 am, when she was in her house, she heard Manjula Medhi screaming. Accordingly, she went to Manjula's house and saw accused Binita Medhi was holding Manjula Medhi and daughter of Binita Medhi was

assaulting Manjula with a bamboo stick on her forehead. As a result, Manjula sustained ruptured injury and blood spilled out profusely. Manjula fell on the ground and the accused persons left the place. At that time, one Sabita Regmi was with her. They hold the victim and raised alarm. The other locals came there and they took the victim to Nikashi OP on a pull cart. As per advice of the police, they took the victim to Nikashi Hospital. Later on, the victim was referred to GMCH. After couple of days, she also went to GMCH to see the victim.

14. PW3 Manjula Medhi is the alleged victim. She said that on 25-02-2017 at around 6.30 – 7.00 am, the incident took place. At that time, the accused persons freed one of her cattle and on that issue, when she enquired the accused persons, accused Pratima Medhi hit on her head with a bamboo stick. As a result, she sustained cut injury on her forehead and blood started to flow out. She also sustained injury on backside of her head. She lost her consciousness and regained her sense at GMCH, Guwahati after two days of the incident. On the day of the incident, her elder sister filed the case against the accused persons.
15. From the evidence of the PW3 victim, we find that the accused did not obstruct the victim from proceeding to any direction. I find that ingredients of S.341 IPC are not present in the given case.
16. PW4 Deepa Karki is another independent witness. She said that about 1 & ½ year ago at about 7.00 am, the accused

persons assaulted the victim Manjula with bamboo. As a result, she sustained injuries and blood was gushing out of the wounds. She witnessed the assault. Villagers came and took the injured to Nikashi Medical and then to GMCH, Guwahati.

17. In cross-examination, PW4 said that she and Manjula are neighbours whereas the house of the accused persons is located at a distance.

18. PW5 Sabita Regmi is an independent witness. She has said that on 25-02-2017 at about 6.00 - 7.00 am, when she was at home, she heard Manjula crying for help. Accordingly, she rushed to the place of occurrence and saw Manjula completely covered with blood. Accordingly, she along with co-villagers took the victim to Nikashi Medical for treatment. Later on, she came to know from neighbor Deepa Karki that the accused person assaulted Manjula.

19. PW6 Krishna Adhikary is another independent witness. He said that one day in the year 2017 at around 7.00 am, he saw the accused persons assaulting informant's elder sister Manjula Medhi. After the incident, the ladies of the neighbourhood brought injured Manjula Medhi in a pull cart and he pushed the pull cart to the nearest hospital at Nikashi. He got the injured admitted in the hospital and returned back.

20. PW7 Utpal Medhi is seizure witness. Though he said that he signed on a paper but he did not say what thing was seized. Rather he expressed ignorance as to why police took his signature. Ext.2 is seizure list.

21. PW8 Dipak Medhi is another seizure witness. He also expressed ignorance about the contents of the paper on which he signed.
22. The prosecution has failed to examine the Medical Officer and Investigating Officer inspite of getting ample opportunity for the same. In spite of non-examination of the Investigating Officer, I find that the defence could not bring contradiction on material points.
23. S. 319 IPC defines 'Hurt' to mean an act which causes bodily pain, disease or infirmity to any person. S. 321 IPC defines what is "voluntarily causing hurt". S.321 IPC describes the circumstances that clothe the act with the elements of criminality, making it an offence, for which this prescribes a penalty. Those circumstances are: (i) the doing of an act, (ii) coupled with the intention or knowledge of causing hurt, (iii) to any person.
24. To bring home an offence u/s 323 IPC, the prosecution is to prove—(a) the victim suffered from bodily pain, disease or infirmity; (b) that the accused caused the aforesaid bodily pain etc.; (c) that the accused did so intentionally or with knowledge that in the process hurt would be caused.
25. PW3/the victim has said that accused Pratima had beaten on her head by bamboo stick. PW2 Puspa Adhikary has corroborated the victim that she had seen accused Pratima hitting on forehead of the victim by bamboo. PW4 Deepa Karki has also corroborated the victim/PW3 that the accused persons
- Typed by me... Contd...

had beaten the victim by bamboo. PW6 Krishna Adhikary had also seen the accused persons assaulting the victim. PW5 Sabita Regmi has admitted that she has not seen the accused assaulting the victim. But she found the victim clad with blood. She corroborated the other witness that the victim was taken to Nikashi Hospital. PW6 Krishna Adhikary has stated that he pulled the pull cart and took the victim to Nikashi Hospital.

26. The PWs have been stable on their evidence and are found to be trustworthy. It is clear from the evidence that deceased accused Binita Medhi and Pratima Medhi who are mother and daughter together assaulted the victim Manjula Medhi. Both deceased accused Binita Medhi and Pratima Medhi had the meeting of mind in assaulting victim Manjula Medhi. There is consensus of mind between accused Pratima Medhi and her mother Binita Medhi to bring out the particular result i.e. assault of victim Manjula Medhi is reflected from the evidence of PW1/informant who said that she saw accused Binita Medhi was hitting Manjula with a wooden batam (plank) and accused Gayatri Medhi was holding a dao. Here, we can see not only participation of accused Pratima Medhi but also in action. Though accused Binita Medhi who is the mother of accused Pratima Medhi has expired, I find that S. 34 IPC is established in this case.

27. Though the Medical Officer has not been examined by the prosecution, I find that all PWs have corroborated each other

that victim Manjula Medhi had sustained injury on her forehead. There was bleeding and was taken to hospital.

28. From the available evidence, we see that the victim Manjula Medhi sustained bodily discomfort, injury for which she had to be taken to hospital. The accused had beaten the victim by bamboo stick. The accused had caused such bodily injury to the victim. The use of the weapon shows that the accused had the intention to cause hurt to the victim.
29. I find that the ingredients of S. 323 IPC are all established in this case.
30. From the above discussions, I find that it is not proved that the accused person had in furtherance of common intention wrongfully restrained Manjula Medhi. So, the accused person is not guilty u/s 341/34 IPC.
31. But I find that Manjula Medhi had sustained hurt **AND** the accused person had in furtherance of common intention voluntarily caused hurt to Manjula Medhi. So, the accused person is guilty u/s 323/34 IPC.
32. From the above discussions, I am of the considered opinion that the prosecution has successfully proved the guilt of the accused person beyond reasonable doubt U/s 323/34 IPC. The prosecution has failed to prove the guilt of the accused person beyond reasonable doubt u/s 341/34 IPC. So, I acquit the accused of the charge u/s 341/34 IPC.
33. The accused had beaten the victim on small issue. Law breaker should not be allowed to go from court without  
Typed by me... Contd...



punishment otherwise same will send a wrong message to the society. Hence, I consider that the accused is not entitled to get the benefit of the Probation of Offenders Act.

34. The accused person is heard on the question of sentence.

35. I convict accused Pratima Medhi u/s 323/34 IPC and sentence her to pay fine of Rs. 1,000/- (Rupees one thousand) only i/d SI for 30 (thirty) days.

36. The seized article vide MR No. 3/17 be destroyed after appeal period.

37. Given under my hand and seal of this Court this 28<sup>th</sup> day of December, 2022.

Typed by me—

**D. Boro**  
**CJM, Baksa**

**D. Boro**  
**CJM, Baksa**

**APPENDIX**

**PROSECUTION EXHIBITS:**

Ext.1- FIR.

Ext.2- Seizure list

**DEFENCE EXHIBITS: NIL.**

**EXHIBITS PRODUCED BY WITNESSES: NIL.**

**COURT EXHIBITS: NIL.**

**PROSECUTION WITNESSES :**

PW1- Alpana Sarkar.

PW2- Puspa Adhikary.

PW3- Manjula Medhi.

PW4- Deepa Karki.

PW5- Sabita Regmi.

PW6- Krishna Adhikary.

PW7- Utpal Medhi.

PW8- Dipak Madahi.

**DEFENCE WITNESSES :NIL.**

**COURT WITNESSES: NIL.**