

**IN THE COURT OF
THE CHIEF JUDICIAL MAGISTRATE::BAKSA
Case No. : GR-553/18
Under Section 147/148/324/326 IPC**

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

**The State of Assam.....Prosecution.
-Vs-**

**Monowara Begum
Sanowar Hussain
Nur Haque
Billal Ali
Hasen Ali
Habibar Rahman
Abdul Kasem
Dilbar Hussain @ Dilbar Ali
Jamaluddin, Iman Ali
Sahatun NesaAccused Persons.**

Evidence recorded on :- 15-03-2019, 17-05-2019,
18-07-2019, 09-06-2022,
10-08-2022.
Argument heard on :- 09-09-2022
Judgment delivered on :- 09-09-2022

Advocate Appeared :-

Mr. Ranjit Basumatary.....APP for the State of Assam.

Mrs. Dwimu Narzary.....Advocate for the accused person.

J U D G M E N T

1. The gist of the FIR is that on 21-02-2015 informant Abdul Based lodged an FIR at Gobardhana PS to the effect that on 20-12-2015 at about 8.30 am there was altercation between the informant's younger brother Jainuddin and accused Iman Ali. Hence, accused Iman Ali and his wife called out the family members to come with stick, dao etc. Then the rest accused persons armed with stick, dao, axe etc. came and had attacked Abbas Ali, Hafizur Rahman, Maslimuddin and Tahar Ali causing them injuries.
2. Police registered Gobardhana PS Case No.31/2015 u/s 147/148/326/324 IPC against twelve nos. of accused persons and after completion of investigation submitted charge-sheet against eleven numbers of accused persons u/s 147/148/324/326 IPC.
3. Charge was framed against the accused persons u/s 147/148/324/326 IPC and contents of the charge were read over and explained to the accused persons to which the accused persons pleaded not guilty and claimed to be tried.
4. The prosecution examined 3 (three) nos. of PWs and 3 (three) nos. of CWs. The defence has examined none.
5. The accused persons are examined u/s 313 Cr.P.C. The accused person has declined to adduce evidence.

6. 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.

7. POINTS FOR DETERMINATION:-

1. Whether the accused persons had committed the offence of rioting?
2. Whether the accused persons had committed the offence of rioting armed with deadly weapons?
3. Whether Abbas Ali, Hafizur Rahman, Maslimuddin and Tahar Ali sustained hurt?
4. Whether the accused persons had caused hurt to Abbas Ali, Hafizur Rahman, Maslimuddin and Tahar Ali by any dangerous weapon?
5. Whether Abbas Ali had sustained grievous hurt?
6. Whether the accused persons had caused grievous hurt to Abbas Ali by any dangerous weapon?

8. DISCUSSION, REASONS AND DECISION:

9. POINT NO. 1 to 6:

10. PW1 Abdul Based is the informant. He said that about four years ago at about 11.30 am, he heard that the accused persons had assaulted his family members at the field. Accordingly, he rushed to the field which is about 1/2 km away from where he was at that time. After reaching there, he saw his sons Muslemuddin and Hafijul and nephew Abbas Ali lying

injured. The villagers were pouring water on their head. When he enquired about the incident from the injured, they told him that the accused persons namely Iman Ali, Billal Hussain, Jamal, Kasem, Dilwar, Nur Mahammad and others assaulted them when they were cultivating. He saw Abbas Ali and Muslemuddin sustaining injury on their heads and he saw blood in the wounds. Hafijul sustained injury on his back. Then he along with others took the injured to Barpeta Road Hospital and therefrom they were sent to Guwahati for treatment. Later on, he filed a case in the Court. Ext.1 is the FIR.

11. In cross-examination, PW1 said that he has forgotten the content of the FIR. The scribe did not read out the FIR to him. He has not seen the accused assaulting his family members.
12. Apart from the informant, the prosecution has examined two other PWs and three CWs. None of the other PWs and CWs said anything against the accused persons. Even the alleged victims had not supported the prosecution story. Hence, I find that the ingredients of S. 147/148/324/326 IPC are not established.
13. In the entirety of the facts and circumstance of the case, I find that it is not proved that the accused persons had committed the offence of rioting the accused persons had committed the offence of rioting armed with deadly weapons **AND** Abbas Ali, Hafizur Rahman, Maslimuddin and Tahar Ali sustained hurt **AND** the accused persons had caused hurt to

Abbas Ali, Hafizur Rahman, Maslimuddin and Tahar Ali by any dangerous weapon **AND** Abbas Ali had sustained grievous hurt **AND** the accused persons had caused grievous hurt to Abbas Ali by any dangerous weapon. So, the accused persons cannot be held guilty u/s 147/148/324/326 IPC.

14. From the above discussions, I am of the considered opinion that the prosecution has failed to prove the guilt of the accused persons beyond reasonable doubt u/s 147/148/324/326 IPC. So, I acquit accused persons viz. **Monowara Begum, Sanowar Hussain, Nur Haque, Billal Ali, Hasen Ali, Habibar Rahman, Abdul Kasem, Dilbar Hussain @ Dilbar Ali, Jamaluddin, Iman Ali and Sahatun Nesa** of the charges u/s 147/148/324/326 IPC and are set at liberty.

15. Given under my hand and seal of this Court this 9th day of September, 2022.

Typed by me—

**D. Boro
CJM, Baksa**

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CJM, Baksa**

APPENDIX

PROSECUTION EXHIBITS:

Ext.1- FIR

DEFENCE EXHIBITS: NIL.

EXHIBITS PRODUCED BY WITNESSES: NIL.

COURT EXHIBITS: NIL.

PROSECUTION WITNESSES :

PW1- Abdul Based

PW2- Monowara Begum

PW3- Abida Khatun

DEFENCE WITNESSES :

COURT WITNESSES:

CW1- Hafizur Rahman

CW2- Tahar Ali

CW3- Jayenuddin