

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

**GR Case No. 562/18**

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

**Present :- Smti. D. Boro, AJS,**

**Chief Judicial Magistrate, Baksa.**

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

**Vs**

**Jatin Boro**

**Babu Boro .....Accused persons.**

Evidence recorded on :- 25-07-2018, 03-10-2018,  
26-12-2018, 13-03-2019,  
16-07-2019, 26-08-2019,  
05-03-2020, 22-06-2022.

Argument heard on :- 28-07-2022.

Judgment delivered on :- 21-09-2022.

Advocate Appeared :-

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

Mr. **Swamdan Deury**

Mrs. **Ritamani Das**.....Advocate for the accused persons.

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

1. The prosecution story in brief is that on 17-02-2016 informant Bolen Boro lodged an FIR before IC, Kumarikata

OP to the effect that on 15-02-2016 at about 9.30 AM the accused persons along with some other persons had beaten his brother Rabi Boro and his buffalo keeper Rajen Urang. They were beaten on head and caused bleeding. Hand and legs of Rajen Urang was fractured. Hearing hue and cry, as the people from nearby village came, the accused persons went away after assault. Delay in lodging the FIR is caused due to remaining busy in treatment of the injured persons.

2. Police registered a case against three nos. of accused persons u/s 325/324/34 IPC and after completion of investigation submitted charge-sheet against accused Jatin Boro and Babu Boro u/s 341/323/34 IPC.
3. Particulars of offence u/s 341/323/34 IPC 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 8 (eight) nos. of witnesses and defence examined none.
5. The accused persons are examined u/s 313 Cr.P.C. The accused 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 in furtherance of common intention wrongfully restrained Rabi Boro and Rajen Urang?
- 2) Whether Rabi Boro and Rajen Urang had sustained hurt?
- 3) Whether the accused persons had in furtherance of common intention voluntarily caused hurt to Rabi Boro and Rajen Urang?

8. **DISCUSSIONS, REASONS & DECISION THEREFOR –**

9. **Point No.1, 2 & 3:**

10. PW1 Bolen Boro (informant) said that the incident took place on 15-02-2016 at around 9.30 AM. He has a buffalo shed at Barikadonga near Pagolia river and his brother Rabi Boro, Rajen Urang and Rajib work in that shed. On the day of the incident, the accused persons came there and assaulted his brother Rabi Boro and Rajen Urang. At that time, he was at home. His brother Rabi Boro informed him about the incident. As the local people took the injured persons to Baganpara PHC, he went there. He saw cut injury on head of his brother Rabi Boro and on hand of Rajen Urang. His brother told him how the incident took place. As he was busy in the treatment of the injured persons, he filed the FIR after two days of the incident. Ext.1 is FIR.

11. PW2 Rabi Boro is brother of the informant and one of the alleged victims. He said that on 15-02-2016 at around 9.30 AM while he along with Rajen Urang and Rajib Boro were in their buffalo shed at Barikadonga near Pagolia river, the accused persons namely Jatin Boro, Rama Boro and Babul Boro came there and assaulted them. Accused Babul Boro hit him with a piece of wood on his head. As a result, he sustained cut injury. Blood oozed out from the injury. Hue and cry raised and the nearby villagers came there. They took them to Baganpara PHC.
12. PW3 Chaben Boro said that about two and half years ago, he heard that some buffalo shed owners had assaulted Rabi Boro and he was admitted at Baganpara Hospital.
13. PW4 Rajen Urang is another alleged victim. He said that about three years ago, one day at around 7.30 AM, the accused persons namely Jatin Boro and Babu Boro came to the cow shed near Pagaldia river bank along with some others and started to beat them. As a result, he and Rabi Boro sustained injuries. Hue and cry rose. He became unconscious. The villagers came there and seeing that the accused persons left the spot.
14. PW5 Ritamani Das said that about three years ago, in the morning while she was working in her house, she heard hue and cry. As she tried to see what was happening, she saw

some people were assaulting the owner of the buffalo shed and Rajen Urang. Accordingly, she called other villagers and went to the spot and found them in injured condition. They wiped out the blood from the wounds and took the victims to Baganpara hospital.

15. PW6 Dr. Amarjyoti Gayan (MO) said that on 30-08-2016, he examined Rabi Boro at Baganpara MPHC and found the following-

No injury on the person of Rabi Boro. Ext.2 is medical report.

On the same day, he also examined Rajen Urang and found the following-

Abrasion on upper part of left arm.

In his opinion, the injury was simple in nature and was caused by blunt object.

Ext.3 is medical report.

16. PW8 Insp. Pranab Baishya (IO) has said in his cross-examination that the victims have caused their medical treatment on their own.

17. There is no eye witness of the alleged occurrence. The alleged victims are the sole witnesses to describe as to how the incident took place. PW2 said that he sustained cut injury on head. Ext.2 is medical report of Rabi Boro (PW2). Though the MO (PW6) stated before the Court that he did

not find any injury on person of Rabi Boro, but perusal of Ext.2-medical report shows that Rabi Boro sustained minor head injury.

18. Ext.3-medical report of Rajen Urang shows that he sustained minor blunt injury over left upper limb.
19. The medical report of PW2 Rabi Boro and PW4 Rajen Urang shows that both Rabi Boro and Rajen Urang had sustained simple injury.
20. The defence could not shake the PW1, PW2 and PW4 and could not bring any contradiction in their evidence. PW5 Ritamani Das though has not seen as to who assaulted PW2 and PW4, but it can be seen from her evidence that PW2 and PW4 were assaulted and both sustained injuries. The villagers took the victims to Baganpara PHC. PW1 Bolen Boro has also stated in his evidence that as the local people took the injured persons to Baganpara PHC, he went there.
21. Whether the victims took medical treatment on their own or on police requisition has no effect on the merit of the case. All that is required is to see whether the victim/victims has/have sustained any injury as stated before the Court or alleged. In our present case, the ocular evidence is corroborated by the medical evidence. Hence, I find that PW2 Rabi Boro and PW4 Rajen Urang had sustained hurt.

22. There is no evidence that the accused persons had obstructed Rabi Boro and Rajen Urang from proceeding in any direction. Hence, Sec. 341 IPC is not proved in our present case. I find that it is not proved that the accused persons had in furtherance of common intention wrongfully restrained Rabi Boro and Rajen Urang.
23. From the above discussions, I find that the PWs are trustworthy. Hence, I find that it is proved that Rabi Boro and Rajen Urang had sustained hurt **AND** the accused persons had in furtherance of common intention voluntarily caused hurt to Rabi Boro and Rajen Urang. So the accused persons are guilty u/s 323/34 IPC.
24. 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 341/34 IPC. So, I acquit the accused persons viz. Jatin Boro and Babu Boro of the charges u/s 341/34 IPC.
25. I am of the considered opinion that the prosecution has successfully proved the guilt of the accused persons beyond reasonable doubt u/s 323/34 IPC.
26. Any kind of law breaking is never acceptable. If the accused persons are allowed to go without any punishment, same will give a wrong message to the society. Hence, I

consider that the accused persons are not entitled to get the benefit of the Probation of Offenders Act.

27. I convict the accused persons u/s 323/34 IPC and sentence them to pay fine of Rs. 1,000/- each i/d SI for 30 (thirty) days i.e., total Rs. 2,000/-.

28. Given under my hand and seal of this Court this 21<sup>st</sup> day of September, 2021.

Typed by me—

**D. Boro**  
Chief Judicial Magistrate,  
Baksa

**D. Boro**  
Chief Judicial Magistrate,  
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**APPENDIX**

**PROSECUTION EXHIBITS:**

- Ext.1- FIR.  
Ext.2 & Ext.3 Medical report.  
Ext.4- Sketch map.  
Ext.5- Charge sheet.

**MATERIAL EXHIBITS: NIL**

**DEFENCE EXHIBITS: NIL.**

**EXHIBITS PRODUCED BY WITNESSES: NIL.**

**COURT EXHIBITS: NIL.**

**PROSECUTION WITNESSES:**

- PW1- Bolen Boro.  
PW2- Rabi Boro.  
PW3- Chaben Boro.  
PW4- Rajen Urang.  
PW5- Ritamani Das.  
PW6- Dr. Amarjyoti Gayan (MO).  
PW7- SI Kailash Malakar (IO)  
PW8- Insp. Pranab Baishya (IO)

**DEFENCE WITNESSES: NIL**

**COURT WITNESSES:**