

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
BAKSA**

Present: P. Chetia, AJS, JMFC

Date of Judgment: 26.04.2022

G.R. Case No. 345/2018

Tamulpur P.S. Case No. 152/2017

COMPLAINANT:	STATE OF ASSAM
REPRESENTED BY:	SRI. KISHOR BASNET
ACCUSED:	A1. NITIN SINGHA A2. RANJIT SINGHA
REPRESENTED BY:	SRI. NIRMAL RAJBONGSHI

Date of Offence	31.05.2017
Date of FIR	03.06.2017
Date of Charge sheet	30.06.2017
Date of framing of Charges	02.08.2019
Date of commencement of evidence	26.11.2019, 13.03.2020, 08.02.2021, 19.03.2021, 27.09.2021
Date on which judgment is reserved	15.03.2022, 26.04.2022
Date of Judgment	26.04.2022
Date of Sentencing Order, if any	

Accused Details:

Rank of the Accused	Name of the Accused	Date of Arrest	Date of release on bail	Offences charged with	Whether Acquitted or Convicted	Sentence imposed	Period of Detention undergone during Trial for the purpose of Sec. 428 Cr.P.C.
A1.	Nitin Singha			Sections 341	Acquitted		
A2.	Ranjit Singha			and 324 IPC			

JUDGMENT

1. The accused persons namely, **Nitin Singha and Ranjit Singha** have been put to trial in the instant case to answer the charges for the offences punishable under Sections 341, 324, 34.

BRIEF FACTS

2. The case of the prosecution in brief is that on 03.06.2017 the informant Ranjit Biswas filed a FIR in the Nagrijuli O.P. alleging that on 31.05.2017 the accused person Ranjit Singha assaulted his pet dog as a result the dog sustained injury. When the informant went and asked the accused person about it, he with the help of three persons namely Jiten Singha, Niten Singha and Papon Singha physically assaulted him and his son Shyamal Biswas. The accused person Ranjit Singha also hit him with a bamboo pole on the backside of his head and the informant sustained injury as a result. The accused persons told him that they would compromise the case. Hence, the case.
3. Accordingly, a G.D. Entry was made vide G.D.E. No. 35 dated 03.06.2017 and the FIR was forwarded to the O/C, Tamulpur. On the basis of the FIR, a case was registered as Tamulpur P.S. Case Number- 152/17 under Sections 325, 34 IPC. After the completion of the investigation charge sheet along with one sketch map, two medical reports and one bail

bond were submitted by the I.O. ASI Jakir Hussain against the accused persons Nitin Singha and Ranjit Singha under Sections 341, 324, 34 IPC.

4. The accused persons appeared before the court and copy of relevant documents was furnished to them in accordance with Section 207 Cr.P.C. Upon consideration of relevant documents and hearing both parties, formal charge u/S 341, 324, 34 IPC was framed against the accused persons and particulars of offences were read over and explained to them to which they pleaded not guilty and claimed to be tried.
5. During trial, the prosecution examined 6(six) witnesses after which the prosecution evidence was closed. The statement of the accused persons u/S 313 Cr.P.C was recorded in separate sheets and tagged along the case record. The accused persons completely denied the allegation. Defence did not adduce any evidence.
6. Heard the arguments advanced by learned Assistant Public Prosecutor and learned defence counsel and perused the evidence on record.

POINTS FOR DETERMINATION

7. Whether the accused persons Nitin Singha and Ranjit Singha, in furtherance of common intention, on 31.05.2017, at Ikrabil, wrongfully restrained the informant Ranjit Biswas on public road and thereby, committing an offence under Section 341?
8. Whether the accused persons, in furtherance of common intention, on the same date and place, voluntarily caused hurt to the informant by hitting him with a bamboo stick which is a dangerous weapon and thereby, committing an offence under Section 324?

APPRECIATION OF EVIDENCE AND DECISION

9. The prosecution side examined six witnesses to prove its case. I have carefully perused the evidence on record.
10. PW.1 i.e the informant deposed that in the year 2017 at about 12 P.M., his son Shyamal Biswas came home and his dog started crying. When he asked him his son replied that accused A2 Ranjit Singha had beaten his dog with a 'khanta'. Then A1 Nitin Singha, Bapon Singha, accused A2 Ranjit

Singha and Jiten Singha conjointly started to assault him and his son. Then suddenly, accused A2 Ranjit Singha armed with a big 'tukon' hit the backside of his head and as result he fell down and blood started oozing from it. He became senseless and got three stitches at Guwabari Medical.

11. P.W.2 Shyamal Biswas, son of the informant in his testimony deposed that in the year 2017 at about 12 P.M. when he was working in his old residence, the accused no.2 hit his dog. When he asked him the reason, the accused A2 assaulted him with a branch of a tree. After that his father reached there and when he asked about the incident, the accused no.2 assaulted him with a bamboo stick on his head and blood oozed out of the wound. He further stated that Papon, accused A1, accused A2 and Jiten conjointly assaulted him and his father.

12. Here, the versions of both the witnesses differ. PW.1 stated that his son PW2 came home and told him that the accused A2 hit his dog with a 'khanta' and thereafter, when he went to accused A2 to enquire about the incident, accused persons assaulted him and his son and then accused A2 hit him on his head with a bamboo stick. While PW.2 stated that at first the accused A2 hit him with a

branch of a tree and then his father reached there and the accused A2 hit him on his head with a bamboo stick.

13. Both the witness stated that the informant sustained cut injury on his head and blood oozed from it and also that he had to get three stitches on the injury. However, prosecution failed to exhibit any injury report of PW.1 and PW2 and also did not examine the medical officer.

14. There were other witnesses i.e. P.W.3 and P.W.5. P.W.3 in his cross examination deposed that the occurrence took place on the street and that there were about 15-20 persons gathered there. However, PW.5 who stated that she was also on the road at the time of the incident deposed that no one was present on the road at the time of the incident and there was no hue and cry and that no one had come to the place of occurrence because of that. Here it needs to be noted that the occurrence took place on a public place on the road around 12 P.M. PW.3 tells about 15-20 people gathered at the spot while PW.5 stated that none was present as there was no hue and cry at the scene.

15. The FIR was filed after a delay of 3 days. Though, the delay in lodging the FIR is not always fatal to the case if the evidence is reliable and trustworthy. However, in this case there are contradictions in the testimonies of the witnesses. Moreover, the medical officer was not examined and no injury report was exhibited by the prosecution.
16. Hence, considering the above discussion and finding that the evidences are not reliable and trustworthy in the end it is found that the prosecution has failed to establish the guilt of the accused persons under Section 341, 324, 34 IPC beyond the shadow of doubt.

ORDER

Thus, in view of the above discussion it is held the prosecution has failed to prove the allegations against the accused persons Nitin Singha and Ranjit Singha under Section 341, 324, 34 IPC and the accused persons are given the benefit of doubt and are acquitted of the offences under the above-mentioned Sections and are set at liberty forthwith.

Their bail bonds are extended for a period of six months as per Section 437A Cr.P.C.

The judgment delivered and pronounced by me today in the open court given under my hand and seal of this Court on this 26th day of April, 2022.

The entire judgment is typed by me.

Pragyashree Chetia
JMFC, Baksa, Mushalpur.

APPENDIX
LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. PROSECUTION:

RANK	NAME	NATURE OF WITNESS
P.W.1:	Ranjit Biswas	INFORMANT/VICTIM
P.W.2:	Shyamal Biswas	VICTIM
P.W.3:	Amrit Biswas	EYE WITNESS
P.W.4:	Ananda Das	OTHER WITNESS
P.W.5:	Malati Das	EYE WITNESS
P.W.6:	ASI Jakir Hussain	POLICE WITNESS

B. DEFENCE WITNESSES:

None

C. COURT WITNESSES:

None

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. PROSECUTION:

Sr. No.	Exhibit Number	Description
1.	Exhibit 1	FIR
2	Exhibit 1(1)	Signature of P.W.1
3.	Exhibit 2	Sketch Map
4.	Exhibit 2(1)	Signature of P.W.6
5.	Exhibit 3	Charge sheet
6.	Exhibit 3(1)	Signature of SI Nitin Singha

B. DEFENCE:

None

C. COURT EXHIBITS:

None

D. MATERIAL OBJECTS:

None

Pragyashree Chetia
JMFC, Baksa, Mushalpur