

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
BAKSA

P.R.C. Case No. 291 of 2019

.....
Under Sections 323 and 352 of Indian Penal Code

State

Vs.

**1. Lalchan Mandal, 2. Serko Karmakar, 3. Kalu Mandal, 4.
Nitai Mandal, 5. Chinanda Karmakar@ Mathu, 6.
Karmeswar Karmakar and 7. Uttam Karmakar**

..... Accused persons

.....
Present: Pragyashree Chetia, AJS.

Judicial Magistrate First Class, Baksa

Evidence recorded on : 04.01.2022

Arguments heard on : 21.01.2022

Judgment delivered on : 21.01.2022

Appearing for the prosecution: Sri Kishor Basnet

Appearing for the defense : Smt. Rumi Sarma

JUDGMENT

1. The case of the prosecution in brief is that on 30.04.2019, the informant Bijay Barman lodged a FIR in Tamulpur P.S. wherein he alleged that on 29.04.2019 at around 11 AM. when his father Sri. Kajal Barman was in a grocery shop of Durga Mandal in Abhayapur, the accused persons Lalchan Mandal, Serko Karmakar, Kalu Mandal, Nitai Mandal, Chinanda Karmakar@ Mathu, Karmeswar Karmakar and Uttam Karmakar came to the shop armed with 'dao' and sticks and dragged his father out of the shop. They started hitting his father with 'dao' and sticks as a result he sustained injury on his body and he fell on the ground. Hence, the case.

2. On the basis of the FIR a case was registered as Tamulpur P.S. Case Number- 180/19 under Sections 143, 147, 148, 326 and 325 IPC. SI Manoj Kr. Das, Tamulpur P.S. was entrusted with the investigation of the case and after the completion of the investigation charge sheet along with an injury report, a sketch map, two seizure lists, an accused verification report and six bail bonds was submitted by him against the accused persons Lalchan Mandal, Serko Karmakar, Kalu Mandal, Nitai Mandal, Chinanda Karmakar@ Mathu, Karmeswar Karmakar and Uttam Karmakar under Section 352 and 323 IPC.

3. The accused person Karmeswar Karmakar was produced before the court and other co accused persons appeared before this court and were released on bail. 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, particulars of offences u/S 352 and 323 IPC were read over and explained to them to which they pleaded not guilty and claimed to be tried.

4. During trial, the prosecution examined 2(two) witnesses after which the prosecution evidence was closed. The recording of statement of the accused persons u/S 313 Cr.P.C was dispensed with due to the lack of incriminating materials against them. Defence did not adduce any evidence.

5. Heard the arguments advanced by learned Assistant Public Prosecutor and learned defence counsel and perused the evidence on record.

POINTS FOR DETERMINATION

6. Whether accused persons Lalchan Mandal, Serko Karmakar, Kalu Mandal, Nitai Mandal, Chinanda Karmakar@ Mathu, Karmeswar Karmakar and Uttam Karmakar on 29.04.2019, at around 11 A.M., used criminal force on the victim Kajal Barman otherwise than on grave and sudden

provocation by the victim and thereby, committed an offence punishable under Section 352 IPC?

7. Whether accused persons, on the same date and time, voluntarily caused hurt to the victim by hitting him with dao and sticks and thereby, committed an offence punishable under Section 323 IPC?

EVIDENCE ON RECORD

8. The prosecution examined the victim Kajal Barman as P.W.1. who deposed that the informant is his son. About two years ago, his son lodged a case against the accused persons due to some misunderstandings. He further deposed that his son has compromised the matter with the accused persons. In his cross examination, he deposed that he has good relations with the accused persons and do not have any grievance against them.
9. Informant Bijay Barman was examined as PW.2. he deposed that he lodged the case against the accused persons due to some misunderstanding. Now, he has compromised the matter with the accused persons and do not have any grievance against them. He identified the FIR as Exhibit 1 and his signature as Exhibit 1(1). In his cross examination he

deposed that he has good relation with the accused person and does not want to proceed with the case.

DISCUSSION DECISION AND REASONS THEREOF

10. I have carefully perused the evidence on record. It is seen that the testimony of the witnesses do not reveal any incriminating material against the accused persons. Rather, it shows that there had been some misunderstanding between them and the accused persons due to which P.W.2 lodged the case. Also, it is found that at present they have compromised the matter among themselves and both the witnesses do not have any grievance against the accused persons.

11. This is a case under Sections 352 and 323 IPC, where the witnesses have stated that there was only some misunderstanding between them and the accused persons. The informant and the victim, being the main witnesses did not support their own case. Thus, the accused person Lalchan Mandal, Serko Karmakar, Kalu Mandal, Nitai Mandal, Chinanda Karmakar@ Mathu, Karmeswar Karmakar and Uttam Karmakar are hereby not found guilty of offences charged with.

12. Hence, in the end it is found that the prosecution has failed to establish the guilt of the accused persons under Sections 352 and 323 IPC beyond reasonable doubt.

ORDER

13. In view of the above discussion, it is held the prosecution has failed to prove the allegation against the accused persons Lalchan Mandal, Serko Karmakar, Kalu Mandal, Nitai Mandal, Chinanda Karmakar@ Mathu, Karmeswar Karmakar and Uttam Karmakar under Section 352 and 323 IPC beyond all reasonable doubt. As such, the accused persons are acquitted of the offences punishable under the above-mentioned Sections and are set at liberty forthwith.

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

15. The judgment delivered and pronounced by me today in the open court given under my hand and seal of this Court on this 21st day of January, 2021.

The entire judgment is typed by me.

Pragyashree Chetia
JMFC, Baksa, Mushalpur

APPENDIX

PROSECUTION WITNESSES:

1. P.W.1: Kajal Barman
2. P.W.2: Bijay Barman

DEFENCE WITNESSES:

None

PROSECUTION EXHIBITS:

1. Exhibit 1: FIR
2. Exhibit 2: Signature of PW.1

DEFENCE EXHIBITS:

None

MATERIAL EXHIBITS:

None

Pragyashree Chetia
JMFC, Baksa, Mushalpur