

IN THE COURT OF ASSTT. SESSIONS JUDGE
AT GOALPARA.

Sessions CASE No. 33/2019.

U/S 326/307 of I.P.C.

STATE

-Vs-

Ramjan Ali

.... Accused person.

PRESENT: A.K. Basfor., A.J.S.

For the Prosecution : Mr. N.N. Islam, learned Addl. P.P.

For the Accused : Mr. N. Islam and Mr. N. Hoque,
learned Legal Counsel.

Evidence recorded on : 01/06/2019

Argument heard on : 01-06-2019.

Judgment delivered on: 01-06-2019.

JUDGMENT.

1. The prosecution case as unfolded the F.I.R. may, in brief, be stated as follows:
2. On 18/01/2019 at about 9:00 a.m. Ramjan Ali, who is son of informant Sorifuddin caused serious injury to his (accused) wife

namely Aziran Nessa with a spade and thereby caused serious injury on her head and other parts of her body with intent to kill her.

This is the precise incident which had led to the lodgment of the FIR by the informant.

3. On the basis of the aforesaid FIR, a case being Lakhipur P.S. Case No. 30/2019 u/s 447/326/307 of I.P.C. came to be registered and investigation was also conducted. During investigation, the alleged victim woman was medically examined and her statement was also recorded. The available witnesses were examined and the accused Ramjan Ali was arrested and forwarded to custody. The I.O. also seized a Spade from the place of occurrence. Finally, the investigation culminated into the submission of the charge-sheet against the present accused person u/s 447/326/307 of I.P.C.

4. On appearance of the accused, copies of relevant documents were furnished to the accused person in compliance of the provision of section 207 of Cr.P.C. and the case being one triable exclusively by the learned Court of Sessions, the same was committed to the learned Court of Sessions for trial whereupon the same was again re-transmitted to this Court for trial on 07-04-2019.

5. Having heard both sides and considering the materials on record, charges u/s 326/307 of I.P.C. has been formally framed against the accused person and the contents of said charges have been read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

6. During trial, the prosecution examined three witnesses including the informant and the alleged victim of the case. Defence adduced no evidence and stood the plea of total denial. On closure of the prosecution evidence, the accused person has been examined u/s 313 of Cr.P.C. I have heard the argument advanced by learned counsels for both sides.

7. **POINT FOR DETERMINATION:**

(1) Whether the accused person on 18-01-2019 at about 9-00 a.m. at village Manash Reserve under Lakhipur Police Station, voluntarily caused grievous hurt to Aziran Nessa, with a sharp weapon i.e., spade which is a dangerous weapon for cutting, as alleged, and thereby committed an offence punishable u/s 326 of I.P.C. ?

(2) Whether the accused person at the aforesaid relevant time and place, voluntarily caused grievous hurt to said Aziran Nessa, with such intention or knowledge and under the circumstances that if by his above act had caused death of Aziran Nessa, would have been guilty of culpable homicide not amounting to murder (and that he caused grievous hurt) to the said Aziran Nessa, as alleged, and thereby committed an offence punishable u/s 307 of I.P.C. ?

DISCUSSIONS, DECISIONS AND REASONS THEREOF:

8. **P.W.-1, Sorifuddin**, who is informant of the case and who is father of the accused, deposed that on 18/01/2019 at about 9:00 a.m. when he was absent in his house, an altercation took place between the accused and his wife Aziran Nessa at their home. Having heard

hue and cry, some other neighbouring people came to the place of occurrence and broke their quarrel by keeping them aside and then Aziran Nessa fell down and sustained injury on her head. He further deposed that the village people informed the matter to him in exaggerated form and accordingly he lodged an FIR at Lakhipur Police Station. Ext.-1 is the FIR and Ext.-1(1) is his signature.

9. **P.W.2, Aziran Nessa**, who is victim of the case, deposed that on 18/01/2019 at about 9:00 a.m. an altercation took place between her and her accused husband regarding some domestic matter. Having heard hue and cry, the neighbouring people came forward and broke their quarrel by keeping them aside and then she fell down and sustained injury on her head. She further clearly deposed that the accused did not beat her.

She further deposed that presently they have amicably settled the matter which took place out of their misunderstanding and they all are living peacefully, and so, she has no grievance against her accused husband.

10. **P.W.3, Sanowar Hussain**, who is cousin of the informant, deposed that on 18/01/2019 at about 9:00 a.m. an altercation took place between the accused and his wife namely Aziran Nessa at their home, and having heard hue and cry, he and some other neighbouring people went to the place of occurrence and broke their quarrel by keeping them aside and then Aziran Nessa fell down and sustained slight injury on her head. He further clearly deposed that he did not see the accused beating his wife.

These are the evidence on record.

11. On perusal of evidence of P.Ws., particularly the evidence of P.W.1 and P.W.2, who are most important and vital witnesses of the case, being informant and the victim, respectively of the case, I found no material to hold the accused person guilty under section 326/307 of I.P.C. as because none of the P.Ws. including P.W.3 in their evidence has implicated the accused person under the said charges brought against him. None of the P.Ws. has supported the case of prosecution. P.W.1 even has not supported the version of his FIR. In short, I would say that none of the P.Ws. has stated that the accused person inflicted injury or cut injury to the victim as alleged in the FIR. It also clearly appears to me that the alleged victim sustained injury as she fell down when the neighboring people tried to broke the quarrel between the accused and the victim by keeping them aside.

12. In the light of aforesaid discussions, I am of the firm view that the prosecution has totally failed to lead cogent and convincing evidence on record to bring home the charges u/s 326/307 of IPIC against the accused person. The case of the prosecution is therefore held to have failed. Accused person is not found guilty of the offences as charged and as such acquitted of the same and set at his liberty forthwith.

The seized spade be confiscated to the State.

13. The accused person is directed to furnish bail bond as required u/s 437-A of Cr. P.C.

14. The case stands disposed of on contest.

15. Forward a copy of this judgment to the District Magistrate in compliance of section 365 of Cr.P.C.

Given under my hand and the seal of this Court on this 01st day of June, 2019.

Dictated and corrected by me:

**(A. K. Basfor, A.J.S.)
Asstt. Sessions Judge,
Goalpara, Assam.**

Asstt. Sessions Judge, Goalpara

.... Appendix..

APPENDIX. (Sessions Case No.33/2019).

Prosecution witness :

P.W.1 Sorifuddin (informant),

P.W.2 Aziran Nessa (victim) &

P.W.3 Sanowar Hussain.

Defence witness : Nil.

Prosecution Document :

Ext.-1 FIR.

Defence Document : Nil.

Court's witness : Nil.

Court's Document : Nil.

(A. K. Basfor, A.J.S.)
Asstt. Sessions Judge,
Goalpara, Assam.