

DISTRICT: GOALPARA

IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE

GOALPARA

G.R. CASE NO. 2720/2016

U/S. 448/341 IPC

PROSECUTOR: STATE OF ASSAM

-VS.-

ACCUSED: SRI RANJIT MALLAH

PRESENT: SMTI. S. CHANDA, LL.M., AJS.

ADDL. CHIEF JUDICIAL MAGISTRATE, GOALPARA.

APPEARED FOR:

THE STATE: SMTI. SHRABANI GUHA, LEARNED ADDL. PUBLIC PROSECUTOR.

SRI DIPJYOTI DAS, LEARNED ASSTT. PUBLIC PROSECUTOR.

ACCUSED: SRI AYNAL HAQUE, LEARNED ADVOCATE.

DATES OF:

OFFENCE EXPLANATION: 22-03-2018.

EVIDENCE: 27-8-2018, 30-05-2019.

ARGUMENT: 30-05-2019.

JUDGMENT: 12-06-2019.

J U D G M E N T

1. Smti. Soroswati Mallah of Village: Bhaibhani, Mallapara initiated this instant case by filing a written *ejahar* before O/C, Lakhipur P.S. on 12-12-2016 which was registered as Lakhipur P/S FIR No. 500/2016 under section 448/341/323/325/34 IPC against the accused Sri Ranjit Mallah and two others and investigated into.
2. The prosecution case in brief is that, on 09-12-2016 at 01-30 PM the accused person criminally trespassed into informant's father Sri Nandalal Mallah's house situated at village Nidanpur Bhaibhani and beat up her brother Bijoy Mallah and Sanjoy Mallah causing injury to them. Hence, the case.
3. After registering the case, the matter was investigated into. During investigation the accused was arrested and remanded to jail hazot. On completion of investigation, police filed a charge-sheet against accused Sri Ranjit Mallah u/s. 448/341 of IPC.

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4. During trial of the accused was allowed to go on Court bail. Relevant documents of the case were furnished to him. Upon perusal of materials on record and after hearing both sides, my Learned Predecessor-in-office had explained the offence u/s. 448/341 of IPC against the accused, which was read over and explained to him and to which he has pleaded not guilty and claimed to be tried.
5. The prosecution in support of its case examined three witnesses and declined to examine the remaining witnesses. Examination of the accused under section 313 CrPC was dispensed with, as found not necessary. The defence side has not adduced any witness in support of their evidence.
6. I have heard the argument advanced by the Learned Counsels for both sides.
7. Upon hearing and on perusal of the record I have framed the following point for determination:
 - (i) *Whether the accused on 09-12-2016 at about 01-30 PM criminally trespassed into the informant's father's house and wrongfully restrained the family members?*

DISCUSSION, DECISIONS AND REASONS FOR THE DECISIONS:

8. I have gone carefully through the entire evidence and the materials placed before me. The informant Smti. Saraswati Mallah has examined herself as Pw-1 and testified on oath that, the accused is her husband, there was some altercation between her husband and brothers and she had lodged this case. Pw-1 has proved the *ejahar* as Ext.1 and her signature there as Ext.1(1). During cross-examination Pw-1 has stated that she has no grievance against the accused.
9. The alleged victims Sri Bijoy Mallah (Pw-2) and Sri Nandalal Mallah (Pw-3) have examined themselves and testified on oath that, this matter is mutually settled and they have no grievance against the accused. The defence side has declined to cross-examine them.

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10. Now, on going through the entire material placed before me it appears that, the vital witnesses examined by the prosecution who were the informant and alleged victims in this case have not supported the prosecution case. Moreover, the prosecution has not adduced any other witness. In result, there is no incriminating evidence against the accused.
11. I, therefore, find that the prosecution side has failed to establish the guilt of the accused. Accordingly the accused Sri Ranjit Mallah is held not guilty of offence punishable under section 448/341 of IPC, and he is acquitted and set at liberty forthwith.
12. Bail bond furnished on behalf of the accused shall remain in force for a further period of six months.
13. Given under my hand and seal of this Court on this 12th day of June, 2019.

S. CHANDA
ADDL.C.J.M. GOALPARA.

APPENDIX:

PROSECUTION EXHIBIT:

1. EJA HAR

DEFENCE EXHIBIT:

NONE

PROSECUTION WITNESSES:

1. SMTI. SARASWATI MALLA
2. SRI BIJOY MALLHA.
3. SRI NANDALAL MALLHA.

DEFENCE WITNESS:

NONE

Dictated and corrected by me,

S. CHANDA, ADDL. C.J.M. GOALPARA.

TRANSCRIBED BY SMTI . J. CHAKI (STENOGRAPHER).