

IN THE COURT OF ASSISTANT SESSIONS JUDGE:
GOALPARA

Sessions case No. 182/2018

U/s 143/341/283/336 of IPC

R/w Sec. 4 of PDPP

Act.

The State of Assam

-Vs-

(1) Mukunda Medhi,

(2) Pinush Kr. Hajong,

(3) Sobibor Rahman and

(4) Johirul Islam.

..... Accused persons

Present : Smt. C.R. Saikia, A.J.S.
Assistant Sessions Judge, Goalpara

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

For the accused: Mr. A. Mobarak, learned Advocate.

Evidence for the prosecution recorded on 08/07/19,06/11/19,
24/01/20, 17/02/20 and 21/12/20.

Statement of the accused recorded: On 25/01/2021.

Argument heard on: 25-01-2021.

Judgment delivered on: 08-02-2021.

J U D G M E N T

1. The gist of the prosecution case as disclosed in the ejahar is that on 07/08/2018 at about 12:00 noon the F.I.R. named accused persons along with four/ five unknown youths burnt tyre near Bhatipara Camp Bazar on 46 No. National Highway causing much in convenience the vehicles and the passengers passing through that area. Gangadhar Nath, Sub Inspector of Police working at Mornoi P.S. at the relevant time lodged an ejahar with the O.C. of Mornoi P.S. disclosing the said facts.

2. On the basis of the said ejahar Mornoi P.S. Case No. 74/18 u/s 143/341/283/336 IPC, r/w Sec. 3/4 PDPP Act. was registered against accused persons namely Mukunda Medhi, Pinush Kr. Hajong, Sobibar Rahman and Jahirul Islam. On completion of investigation police laid charge sheet against accused Mukunda Medhi, Pinush Kr. Hajong, Sabibar Rahman and Jahirul Islam u/s 143/341/283/336 IPC R/w Sec. 3/4 of PDPP Act.

3. Learned Judicial Magistrate 1st Class, Goalpara committed this case for trial before Hon'ble Court of Sessions vide its order dated 26/09/2018 after complying with the provisions under section 207/209 Cr.P.C. On 10/07/2019 this court received the instant case for disposal from Hon'ble Sessions court on transmission.

4. It is pertinent to mention that learned Sessions Judge, Goalpara, framed a formal charge u/s 143/341/283/336 IPC and R/w Sec. 4 of PDPP Act. against the accused (1) Mukunda Medhi, (2) Pinush Kr. Hajong, (3) Sobibor Rahman and (4) Johirul Islam, vide its order dated 08-03-19 after considering the relevant materials on record. The charge was read over and explained to the accused to which they pleaded not guilty and claimed to be tried.

5. Prosecution side adduced evidence of six witnesses in support of its case. Statement of the accused recorded u/s 313 Cr. P.C. is of total denial. Defence side declined to adduce any evidence in its defence. I have heard the argument of both sides, considered the contentions raised on behalf of both sides and perused the evidence on record.

The points for determination in this case are as follows:

6. (i) Whether the accused on 07/08/2018 at about 12 noon, at Bhatipara Camp Bazar, under Mornoi P.S, you along with others were members of an unlawful assembly and thereby committed an offence punishable u/s **143** of IPC ?

(ii) Whether the accused at the aforesaid time and place, you along with others wrongfully restrained the general public by blocking the road and thereby committed an offence punishable u/s **341** of IPC ?

(iii) Whether the accused at the aforesaid time and place, you along with others did an act causing danger to persons in a public way and thereby committed an offence punishable u/s **283** of IPC ?

(iv) Whether the accused at the aforesaid time and place, you along with others did an act so rashly or negligently as to endanger the human life or personal safety of others and thereby committed an offence punishable u/s **336** of IPC ?

(v) Whether the accused at the aforesaid time and place, you along with others committed mischief causing damage to public property by fire or explosive substance and thereby committed an offence punishable u/s **4 of PDPP Act** ?

DISCUSSION OF EVIDENCE, DECISIONS AND REASONS THEREOF:

7. **P.W.1, Abdul Hakim** testifies that he knows the informant and the accused persons. It is in his evidence that on the day of the incident he came to the place of occurrence after hearing some trouble and saw that the tyres were burning there by the side of the road. In his cross examination P.W-1 stated that he was the V.D.P. Secretary at the time of the incident and police called him over phone to the place of occurrence. He has stated candidly that he does not have any personal knowledge about the incident. From this evidence of P.W-1 it transpires that he came to know about the incident

from police. Being so his evidence does not throw any light in the prosecution case.

8. **P.W-2, Saha Alom** and **P.W-3, Ante Ali**, are the seizure witnesses. It is in the evidence of P.W-2 that one day at about 11:00 p.m. when he was going towards Goalpara Town from Nepalikhuti by driving his tractor, he saw some people and the police personnel gathering near Camp Bazar, Goalpara. According to him police had taken him to the police station and obtained his signature in a seizure list. In his cross examination P.W-2 stated that he did not know what was written in the seizure list. P.W-3 also stated that while he was passing through the road, police took him to Mornnoi P.S. and obtained his thumb impression in the seizure list. In his cross examination P.W-3 stated that he did not know what was written in the seizure list. It is very clear that the evidence of P.W-2 and P.W-3 does not lend any support to the prosecution case.

9. **P.W-4, Akbar Ali**, testifies that he heard from some villagers that some picketers burnt tyres on National Highway No. 46. He deposes that he does not know who burnt the tyres. Learned defence counsel declined to cross examine P.W-4. This evidence of P.W-4 does not implicate the accused persons in the alleged offences.

10. **P.W-5, Sri Gangadhar Nath**, is the informant of this case who proves his ejahar as Exhibit-2 wherein he has

admitted his signature as Exhibit-2(1). He testifies that on 07/08/2018 at about 12:00 noon the accused persons burnt tyres on the road near Bhatipara Camp Bazar. According to him, he was working as Second Officer at Mornoi P.S. at that time and after getting information about burning tyres on the road he had gone there and seized one half burnt tyre and some ashes from the place of occurrence. That he lodged the ejahar coming back to the police station. The evidence of P.W-5 is formal. He did his duty. There is nothing in his evidence to show the involvement of the accused persons in the alleged offences.

11. **P.W-6, Sri Samir Konwar**, is the Investigating Officer of this case. He did all the formalities of investigation like visiting the place of occurrence, recording the statements of witnesses, arresting the accused persons etc.. The evidence of P.W-6 is mostly formal in nature.

12. From the evidence as discussed above it is seen that there is no cogent and convincing evidence on record to show the involvement of the accused persons in the alleged offences. I am of the considered opinion that the prosecution has totally failed to lead cogent and convincing evidence to bring home the charge under section 143/341/283/336 of I.P.C. R/w Sec. 4 of PDPP Act. against the accused persons. Therefore, accused persons Raben are acquitted of the alleged offences under sections 143/341/283/336 of I.P.C. R/w Sec. 4 of PDPP Act. They are set at liberty forthwith. Their bail

bond is extended for six months under section 437A Cr.P.C.

13. 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 08th day of February, 2021.

Dictated and corrected by me:

**(C.R.Saikia, A.J.S.)
Asstt.Sessions Judge, Goalpara**

Asstt.Sessions Judge, Goalpara

A P P E N D I X.

(Sessions Case No. 182/2018).

Prosecution witness :

P.W.1 Abdul Hakim (seizure witness),

P.W.2 Saha Alom (seizure witness),

P.W.3 Ante Ali (seizure witness),

P.W.4 Akbar Ali,

P.W.5 Sri Gangadhar Nath (Informant)

P.W.6 Sri Samir Konwar.

Defencewitness :..... Nil.

Prosecution Document :

Exhibit-1 Seizure List.

Exhibit-2 F.I.R.

Exhibit-3 Charge Sheet.

DefenceDocument :..... Nil.

Court's witness :... .. Nil.

Court's Document :... .. Nil.

**(C. R. Saikia, A.J.S.)
Asstt. Sessions Judge,
Goalpara, Assam.**

