

SESSIONS CASE NO: 77 OF 2016
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: SHRI ASH MOHAMMAD ALI

DISTRICT:DHUBRI
IN THE COURT OF THE ASST. SESSIONS JUDGE, DHUBRI

SESSIONS CASE NO: 77/ 2016
U/S 324/ 307 IPC

PROSECUTOR: STATE OF ASSAM
VERSUS
ACCUSED: (1) SHRI ASH MOHAMMAD ALI

PRESENT : YUSUF AZAZ, ASST. SESSIONS JUDGE, DHUBRI
ADVOCATE FOR THE PROSECUTION: SHRI K.A HUSSAIN
ADVOCATE FOR THE ACCUSED: SHRI A. HUSSAIN
CHARGE FRAMED ON: 10/8/2016
EVIDENCE RECORDED ON: 26/9/2016, 19/1/2017
ARGUMENT HEARD ON: 19/1/2017
JUDGMENT DELIVERED ON: 19/1/2017

JUDGMENT

1. The prosecution in this case was launched by the lodging with an ejahar with the Officer in Charge of Dhubri Police Station on 25/7/2014 by the informant, Smti Roshni Begum to the effect that accused, Shri Ash Mohammad Ali was quarrelling with his wife and then the husband of the informant namely, Shri Sabir Hussain who also happens to be the brother of the accused intervened, but the accused stabbed him with a Dagger and caused grievous injury to him and tried to murder him.

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2. Upon receipt of the formal ejahar, the police registered Dhubri Police Station case no.919/ 2014 under sections 341/ 294/ 326/ 506 of the Indian Penal Code (IPC) and started investigation in the case. After completion of the investigation the police submitted chargesheet against the abovenamed accused under section 341/ 324/ 294/ 506 IPC, however the learned Committing Magistrate found sufficient materials against the accused under section 307 IPC as such the case was committed for trial.
3. The case was thereafter committed for trial, and the abovenamed accused, Shri Ash Mohammad Ali appeared and entered trial and accordingly the formal charges under section 324/ 307 IPC were framed and the same was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.
4. The prosecution examined as many as five witnesses; whereas the defence declined to adduce evidence.
5. The statements of the accused under section 313 CrPC are recorded.
6. I had heard the arguments put forwarded by the parties. The learned counsel for the accused persons has submitted that the prosecution has failed to prove its case; hence the accused ought to be acquitted.
7. Upon hearing and on perusal of the record I have framed the following point for determination-
 - (1) Whether the accused had voluntarily caused hurt to Shri Sabir Hussain by inflicting cut injuries with a Dagger which is a sharp cutting weapon and thereby committed offence under sections 324 IPC?

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- (2) Whether the accused had stabbed Shri Sabir Hussain with a Dagger in such a manner and circumstance that if death was caused to any of them then he would be liable for murder and thereby committed offence under section 307 IPC?

DISCUSSION, DECISION AND REASONS FOR THE DECISION:

POINT FOR DETERMINATION NO.1 to 3:

8. All the points for determination are taken together for discussion because they are intricately connected to each other.
9. In order to determine the points for determination let me discuss the evidence on record. The prosecution has examined the informant, Smti Roshni Begum (PW1) and she had deposed that both the accused and the injured are brothers and on the date of occurrence some quarrel took place and there was pushing and pulling between them and then accidentally the injured fell on the ground where an iron rod was protruding as a result of which the injured, Shri Sabir Hussain sustained injury. The informant had specifically stated that the injury was sustained accidentally and that the accused did not assault Shri Sabbir Hussain. The prosecution has also examined the injured, Shri Sabbir Hussain (PW2) and he had also deposed that he had some quarrel with the accused and there was some pushing and pulling between them and then he accidentally fell to the ground and sustained injury by falling over a protruding iron rod. The injured, Shri Sabbir Hussain had specifically deposed that the accused did not voluntarily caused hurt to him but he sustained injury by accidental fall and that he does not have any objection if the accused is acquitted.

10. The prosecution has further examined three other independent witnesses namely, Shri Samsul Ali (PW3), Shri Zakir Hussain (PW4) and Shri Rakesh

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Hussain (PW5) but none of these witnesses had actually witnessed the alleged occurrence.

11. It is seen from the evidence on record that the injured, Shri Sabbir Hussain did sustain injury but the said injury was not inflicted by the accused but it was accidental and as such it cannot be said that the accused had voluntarily caused hurt to the injured. In view of the above discussions it is held that the accused had not voluntarily caused hurt to Shri Sabbir Hussain as such it is held that the accused had not committed the offence under section 324/ 307 IPC.

12. DECISION: The prosecution has failed to prove the charges against the accused persons under sections 324/ 307 IPC as such he is acquitted of the aforesaid charges.

ORDER

13. The accused, Shri Ash Mohammad Ali is acquitted of the charges under sections 324/ 307 IPC he is set at liberty.

14. The bail bonds of the accused shall remain in force for another six months from today.

15. The case is disposed of on contest without cost.

Given under my hand and the seal of this court on this the 19th day of January, 2017 at Dhubri.

YUSUF AZAZ,
ASST. SESSIONS JUDGE, DHUBRI

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APPENDIX

PROSECUTION EXHIBITS:

1) EXHIBIT 1- EJAHAR

DEFENCE EXHIBITS

NONE

PROSECUTION WITNESSES

1) SMTI ROSHNI BEGUM

2) SHRI SABBIR HUSSAIN

3) SHRI SAMSUL ALI

4) SHRI ZAKIR HUSSAIN

5) SHRI RAKESH HUSSAIN

DEFENCE WITNESSES

NONE

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