

**IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS, HATSINGIMARI, DHUBRI**

**G. R. CASE NO: 90/2010  
U/S. 147/323/506/149 I.P.C**

**STATE  
VS  
Kaji Ajahar Ali and Others.**

**PRESENT: PRASENJIT DAS,  
JUDICIAL MAGISTRATE FIRST CLASS,  
Hatsingimari, Dhubri**

**APPEARANCES:**

**Astt. P. P. FOR THE STATE: B. Islam  
ADV. FOR THE DEFENCE : R. Karim**

**DATE OF EVIDENCE: 20.5.15, 1.7.15, 08.9.15.**

**DATE OF ARGUMENT: 4.1.17**

**DATE OF JUDGEMENT: 10-01-2017.**

**JUDGEMENT**

1. The brief facts of the prosecution case as is revealed from the Ejahar is that on 19.6.10 at about 11.30 a.m. at Dhaluamari when Rejaul Islam was assisting police officials from Sukchar P.S to identify a land which is a matter of dispute between the accused persons and informant, then the accused persons attacked Rejaul Islam and to save Rejaul Islam when the informant/Hafizur Rahman and Hasinur Rahman interfered then they were also

attacked and to save themselves they took shelter in other people's house. All this happened in front of the police officials and to take control of the matter more policemen were called forth and they were rescued. As a result of the receipt of FIR Sukhchar P.S case no 125/2010 was registered u/s 147/341/337/325 I.P.C.

2. The police took up the investigation and on completion of investigation submitted a final report and vide order dated 14.3.11. Cognizance was taken and summons issued to accused persons namely Kaji Azahar, Rezzak Ali, Nalbahar Sheikh, Eunos Ali and Abul Hussain.

3. On appearance of the above named person before this Court, the relevant copies were furnished to him and thereafter vide order dated 02/09/14 particulars of offence punishable under section 147/323/506/149 of I.P.C. were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried. Accordingly, the trial of the case against the accused persons, commenced.

4. During the trial, the prosecution side adduced its evidence and four witnesses were examined in support of the prosecution case and vide order dated 7.10.15 prosecution closed its evidence and on the same day Statement of Defence u/s 313(5 Cr.P.C was declined by the defence. The Defence adduced no evidence.

5. Heard argument advanced by the learned. Astd. P. P. and learned Defence counsel and perused the evidence on record.

**6. FOLLOWING POINT HAS BEEN SET UP FOR DETERMINATION:**

- (a) Whether the accused persons committed the offence under section 147/323/506/149 of I.P.C against the informant and Rejaul Islam and Hasinur Rahman?**

**7. DISCUSSION ON THE POINT FOR DETERMINATION AND DECISION ARRIVED THEREON WITH REASONS:**

7.1. Evidence of PW1, the informant reveals that the accused are his relatives and there was a previous land dispute with them and a case was also instituted and on the day of occurrence the police had come to make enquiry on the said dispute but the accused attacked him, Hasinul Rahman and Rizaul Hussain with lathy and rod for which they took shelter in nearby house. All this happened in front of police and more police force was called to calm the situation and save them, after which Ejahar was lodged and police forwarded them for medical examination. In his cross examination he denied that he filed a false case out of grudge and the accused did not beat them up. Similar is the evidence of PW2 and PW3 who are all brothers. PW4 is one independent witness whose evidence reveal that there was a quarrel and scuffle between the accused and the informant and his brothers he became of victim out of misconception and got the beating from accused. No evidence of other witness was recorded. Prosecution abruptly closed the

evidence after getting many opportunities as revealed from the order sheet and even the Investigation Officer and the Medical Officer's evidence were not brought on record.

7.2 The burden of proof is on the prosecution to prove its case beyond all reasonable doubts and considering all the evidence on record the prosecution has not brought on record enough evidence. From the evidence of PW4 it is revealed that there was a free fight between the parties. On the other hand evidence of PW1, PW2 and PW3 reveal otherwise. Hence there are two views of the alleged incident.

7.3 Considering all I deemed it fit to acquit the accused persons, namely Kaji Azahar, Rezzak Ali, Nalbahar Sheikh, Eunos Ali and Abul Hussain of the charges against them. The bail bonds of the accused persons shall remain in force for a period of 6 months.

### ORDER

The case of the prosecution has no merit as it has failed to produce sufficient incriminating evidence against the accused person. The prosecution evidence has revealed two sets of views. The accused person namely Kaji Azahar, Rezzak Ali, Nalbahar Sheikh, Eunos Ali and Abul Hussain are acquitted and set at liberty forthwith.

The bail bonds against the accused persons shall remain in force for a period of 6 months in view of section 437-A Cr.P.C.

Given under my hand and seal of this Court on this the Tenth day of January 2017.

Prasenjit Das, A.J.S

## **APPENDIX**

A. Prosecution Exhibit:

- Ext-(1): Ejahar
- Ext-(1(1)): Signature of PW1.

B. Defence Exhibit: Nil.

C. Exhibit produced by witness: Nil.

D. Prosecution Witnesses:

- (a) P. W. 1: Hafizur Rahman / Informant.
- (b) P.W.2: Rezaul Rahman.
- (c) P.W.3: Hasenur Rahman.
- (d) P.W.4: Nur Islam Sheikh.

E. Defence Witnesses: Nil.

F. Court Witness: Nil.

Prasenjit Das, A.J.S