

In the Court of Addl.Chief Judicial Magistrate ::::::::::;;Dhubri

Present :Smt.T.Hussain

Addl.Chief Judicial Magistrate

Dhubri

GR case No519/12

u/s 147/ 447/323/ 506/149 IPC

State

Vs

1. Uttam Kr Ray
 2. Krishna Kt Ray
 3. Mantu Ram Barman
 4. Monteswar Barman
 5. Bhola Nath Barman
 6. Mithun Barman
-Accused persons

Advocates appeared :

For the prosecution:Mr.K.A.Seikh

For the Defence :Mr.P.Roy

Evidence recorded on :19.03.2015

:13.11.2015

Argument heard on :13.11.2015

Judgment delivered on :13.11.2015

Judgment

1. The prosecution case in brief is that on 14.02.12. , one Jibu Ch Barman lodged an ejarah with the Officer –In –Charge Golokganj Police Station ,alleging inter alia that on 13.02.12 at around 8.30 PM the accused persons making an unlawful assembly armed with deadly weapons entered in to his house and dragged him out and started to beat him with lathi on his head as well as on all over his body causing

injuries and further threatened him with dire consequences .On his raising alarm , when his brother Sibur Barman and his uncle Ranjit Barman came forward for his rescue ,the accused persons assaulted them also causing grievous injuries to them

2. Upon receipt of the ejahar Golokganj PS case no.57/12 was registered ,investigated in to and finally charge sheet was submitted against the accused persons u/s147/148/447/294/336/323/506 IPC .

3. On receiving the summons ,the accused persons made their appearance for facing the trial . Having gone through the materials available in the case record ,the particulars of the accusations punishable u/s 147/447/323/506/149 IPC were explained to the accused persons to which they pleaded not guilty and claimed to be tried.

4. During the course of the trial ,the prosecution examined 3 witnesses . After closing the prosecution evidence the accused were appraised that they were at liberty to file written statement as provided u/s 313(5) Cr.P.C.But the accused have declined to file written statement and to adduce evidence . The plea of the defence was of total denial.

5.Points for determination:

I) Whether the accused persons on 13.02.12 at about 8.30 PM at Bishkhuwa Part II forming an unlawful assembly common object of which was to commit following offences used force and thereby committed the offence punishable u/s 147 IPC ?

II)) Whether the accused persons on the same date ,Place and time being members of the aforesaid unlawful assembly committed criminal trespass by entering in to the land of the complainant Sri Jibu Ch Barman with intent to commit an offence and thereby committed the offence punishable u/s 447/149 IPC?

III) Whether the accused persons on the same date ,Place and time being members of the aforesaid unlawful assembly voluntarily caused hurt to the complainant Jibu Barman ,his uncle Ranjit Barman and his brother Sibur Barman and thereby committed the offence punishable u/s 323/149 IPC?

IV) Whether the accused persons on the same date ,Place and time being members of the aforesaid unlawful assembly committed criminal intimidation by giving threat to the complainant and thereby committed the offence punishable u/s 506/149 IPC?

6.Decision and reasons thereof:

I have heard the arguments advance by the Ld counsel for the parties and carefully perused the materials available in the case record. Let us now scrutinize the evidence on record for arriving at just decision.

7.Pw1 Dhananjay Barman has stated in his deposition that both the parties are known to him He further said that the occurrence took place on 13.02.12 at 8 PM . It is also there in the testimony of Pw1 that there was a case between the informant and the accused over some land dispute and in that case decree was passed in favour of the Informant.At the relevant time when the informant was returning home from the court,the accused persons assaulted the informant out of grudge .As Sibur Barman and Ranjit Barman came forward for his rescue ,the accused persons assaulted them also.The villagers called an Ambulance (108) and sent the injured to the hospital .

Pw1 has claimed himself as eyewitness by saying that while he was taking his meal ,having heard hue and cry ,he came out of the house and saw the incident .

Pw2 Jibu Ch Barman is the informant .Accused are his relatives.Pw2 has testified to the effect that nearly four years back ,he had an altercation with the accused persons over some domestic matter .Many people gathered at that place. In the resultant tussle ,Pw1 ,his uncle Ranjit Barman and his brother Siburam Barman sustained simple injuries.Pw2 has further stated that later when the misunderstanding was over, the matter was amicably resolved.Pw2 has said that his uncle Ranjit Barman already expired .

In his cross examination ,Pw2 has further made it clear that out

of misunderstanding the case was lodged.

Pw3 Siburam Barman, brother of Pw2 has also stated in his testimony that out of misunderstanding the case was lodged and that there was merely an altercation between Pw2 and the accused.

Pw2 and Pw3 have given identical depositions in which they have not implicated the accused in any manner with the offences u/s 147/447/323/506/149. Thus it is seen that the victims have not supported the prosecution case at all nor corroborated the evidence of Pw1 implicating the accused to the effect that he saw the accused assaulting Pw2, and Pw3. The prosecution could not examine any other witness to support and corroborate the said testimony of Pw1 implicating the accused. Due to existence of such contradictions between the versions of Pw1 and the victims (Pw2 and Pw3), evidence of Pw1 can not be relied upon.

8. That being the position it is found and held the prosecution has failed to bring home the charges against the accused persons.

9. In the result accused persons are acquitted of the charges u/s 147/447/323/506/149 IPC and set at liberty forth with.

Bail bonds shall remain in force for the next six months.

Given under my hand and seal of the court on this 13th day of November 2015.

(T.Hussain)

Addl.C.J.M, Dhubri

Dictated & Corrected by me

