

**IN THE COURT OF THE SESSIONS JUDGE AT DHUBRI**

**Sessions Case No.172/2015**

**U/s.323/436/34 IPC**

**G.R. 478/2012**

**State of Assam**

**-Vs-**

- 1. Safiot Rahman**
- 2. Guljar Ali**

Committing Magistrate : Smti T. Hussain, Addl. Chief Judicial Magistrate,  
Dhubri.

Present : Sri Rajib Goswami, AJS  
Sessions Judge, Dhubri

Sri M. Zaman, Public Prosecutor, Dhubri for the State.  
Sri Yusuf Ali Bepari, Advocate for the defence.

Date of Evidence : 05-12-2015, 18-12-2015 and 08-03-2016

Date of Argument : 13-07-2016

Date of Judgment : 20-07-2016

**J U D G M E N T**

The prosecution case in brief is that one Md. Jalal Sk. had lodged a FIR at Tamarhat P.S. to the effect that on 18-09-2012 at around 1 p.m. Accused Safiot Rahman illegally entered into his house and started assaulting his grandson, Nur Islam. When he tried to intervene, the accused had also assaulted him. Thereafter, said Safiot Rahman had fetched a machete from his house and again started striking blows on his person. They were saved timely intervention of village people.

2. On the FIR a case was registered by O.C., Tamarhat Police Station u/s.341/323/436/34 of IPC against accused person namely Safiot Rahman and Guljar Ali. The I.O. after due investigation had filed charge sheet against the above accused persons .u/s.323/436/343 of IPC.

3. Accused persons appeared before the Court, charges under Section 323/436/34 of IPC had been framed against accused persons namely Safiot Rahman and Guljar Ali. Both of them pleaded not guilty and claimed to be tried.

4. The prosecution examined as many as 5 (five) witnesses. There being no incriminating materials against the accused persons, the necessity to examine accused persons u/s.313 of Cr.P.C. was done away with.

Heard learned advocates

5. **Points for determination:**

1. Whether the accused persons on 18-09-2012 at around 1:00 p.m. at village Bhati-petela under Tamarhat P.S. in furtherance of their common intention had voluntarily caused hurt to the complainant, Jalal Sk and one Rapiqul Sk?
2. Whether on the same day time and place in furtherance of their common intention committed mischief by setting fire on the dwelling house of Guljar Ali?

**DECISIONS AND REASONS THEREON**

6. It is evident from the evidence of PW-1 that he was aware about differences between informant and the accused persons. He was also aware about the house of accused person catching fire. But he was not aware as to the perpetrator of the alleged occurrence.

7. PW-2 Md Abul Sk. was aware about differences between informant Jalal and accused persons over a matter involving monetary transaction. He had heard that house of accused persons caught fire. He was not aware about the perpetrator of the alleged occurrence.

8. PW-3 Jalal Sk, had stated that accused persons are known to him. The FIR had been lodged by him. Accused Safiot had threatened him and out of fear for attempt on his life, he had lodged the FIR.

9. PW-4 Nur Islam Sk. Was aware about an altercation between accused persons and informant. On his return from his market on that they he had found their kitchen had caught fire. It was made of bamboo post and had a tarpaulin cover over head.

10. PW-5, Sirajul Sikari stated about knowing both informant and accused persons. He was only aware about fire breaking out at the house of accused persons. He was not aware how the fire broke out.

11. It is evident from the evidence of PWs examined above that the house that caught fire was that of accused persons and there is no evidence as to how the fire had broken out. Further, there is no evidence with regard to accused persons assaulting the informant and his grandson. Circumstances surfacing in the evidence of PWs are not consistent with the allegations made in the FIR though medical evidence reveals that Rofiqul Islam and Nur Islam are shown to have suffered injuries but there is no evidence on record against accused persons to have caused those injuries. The dwelling house that caught fire belongs to Guljar Ali who is an accused in the case. The prosecution having failed to establish charges beyond all reasonable doubt, accused persons are acquitted and set at liberty forthwith.

Given under my hand and seal of this court on this the 15<sup>th</sup> day of July, 2016.

Dictated & Corrected by me

Sessions Judge, Dhubri

Sessions Judge, Dhubri.

## **APPENDIX**

**A. Prosecution Witness.**

PW-1 - Md. Jahirul Islam  
PW-2 - Md. Abul Sk.  
PW-3 - Md. Jalal Sk.  
PW-4 - Md. Nur Islam Sk.  
PW-5 - Md. Sirajul Shikari

**B. Court Witness**

Nil

**C. Defence Witness**

Nil

**D. Prosecution Exhibits.**

**D. Defence Exhibit**

Nil

Sessions Judge, Dhubri