

**IN THE COURT OF SUB-DIVISIONAL JUDICIAL MAGISTRATE (M), MARGHERITA:**

**TINSUKIA**

**G.R. CASE NO: 162 OF 2018 @ PRC CASE NO.127 OF 2018**

**U/Sec 341/323/294/506/427/34 OF IPC**

STATE OF ASSAM

..... PROSECUTOR

**-Vs.-**

1) SRI BITUL MORAN

S/O: LATE DEBI CHARAN MORAN

ADDRESS: BETANI GAON

P.S.: DIGBOI, DIST: TINSUKIA, ASSAM

2) SRI DIPANKAR MORAN

S/O SRI TULESWAR MORAN

ADDRESS: BETANI GAON

P.S.: DIGBOI, DIST: TINSUKIA, ASSAM

.....ACCUSED

**PRESENT: SALEH AHAMMAD, LL.M. AJS**

**SUB-DIVISIONAL JUDICIAL MAGISTRATE (M), MARGHERITA,**

**TINSUKIA**

FOR THE STATE: Mr. BAPPA PURKAYASTHA, LEARNED ASST.PP

FOR THE ACCUSED: Mrs. JURI GOGOI (KAUR), LEARNED DEFENCE COUNSEL

OFFENCE EXPLAINED ON: 27/07/18

EVIDENCE RECORDED ON: 16/05/19

ARGUMENT HEARD ON: 16/05/19

JUDGMENT DELIVERED ON: 30/05/19

**JUDGMENT:**

1. The genesis of this case had its roots with the lodging of the First Information Report (in short as FIR) wherein the informant has alleged that on 06-03-18 at about 1:45 P.M. in the afternoon when he went his work place at Gopanery Bottling plant Sri

Dipankar Moran and Bitul Moran assaulted him. They also abused him with filthy languages and threatened him not to join his work place. The accused persons also damaged his bicycle. The informant lodged the FIR. The criminal law was set in motion with the lodging of the FIR.

2. In this case the O/C DIGBOI PS registered as DIGBOI PS case No. 50/2018 U/sec 341/323/294/506/427/34 of IPC and the case was entrusted to S.I TUCHEN CHUTIA for investigation and finally after completion of investigation the charge sheet was submitted by him against the accused persons U/sec 341/323/294/506/427/34 of IPC.
3. In this case the accused persons appeared before the court and they were allowed to go on bail by my learned predecessor and as per section 207 of CrPC & the offences U/sec 341/323/294/506/427/34 of IPC were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried. In this case the prosecution has adduced as many as one PW to prove the case. In this case the statements of the accused persons are hereby dispensed with. The defence does not want to adduce any DW's from their side.
4. I have heard arguments of the learned defence counsel and the learned Asst. P.P. I have perused the evidence on record and scrutinized the evidence on record.
5. After hearing both sides the following are determined point of determination.

#### **POINT OF DETERMINATION**

##### **POINT FOR DETERMINATION NO.1:**

***Whether the accused persons in furtherance of common intention on 03/03/18 at about 3:30 P.M. at Gopanery Bottling plant had wrongfully restraint the informant & thereby the accused had restrained the informant and thereby committed an offence punishable U/sec 341/34 of IPC?***

##### **POINT FOR DETERMINATION NO.2:**

***Whether the accused persons in furtherance of common intention at the same time and place had voluntarily caused hurt to the informant and thereby committed an offence punishable u/sec 323/34 of IPC?***

##### **POINT FOR DETERMINATION NO.3:**

***Whether the accused persons in furtherance of common intention had used slang and abusive words in or near a public place to the informant at the same time and place and thereby committed an offence U/S 294/34 of IPC?***

**POINT FOR DETERMINATION NO.4:**

***Whether the accused persons in furtherance of common intention had committed mischief causing loss or damage to the informant's cycle by damaging it which had caused loss to him more than Rs. 50/- & thereby committed an offence punishable u/s 427/34 of IPC?***

**POINT FOR DETERMINATION NO.3:**

***Whether the accused persons in furtherance of common intention had committed criminal intimidation by threatening the complainant & thereby committed an offence punishable u/s 506/34 of IPC?***

**Discussion, Decision and Reasons there on:**

*For the sake of convenience all the points are clubbed together:*

6. PW1 in his evidence has deposed that he is the informant of this case. The accused persons assaulted him. He had sustained some injuries. He had undergone medical treatment. He lodged the FIR. EXT 1 IS THE FIR, EXT 1(1) IS HIS SIGNATURE. The police seized his cycle. EXT 2 IS THE SEIZURE LIST, EXT 2(1) IS HIS SIGNATURE. Now, he do not want to proceed with this case. They have amicably settled the matter.
7. During his cross examination he stated that he has no objection if the accused is acquitted from this case.

***I have heard the arguments of the learned Asst.PP & the learned defence counsel.***

8. From the perusal of the evidence on record it appears that the informant and the accused persons have amicably settled the matter and the informant cum injured has admitted that he doesn't want to proceed with this case.
9. In the light of the above discussion & reasons, I am of the opinion that the prosecution has failed to prove the case against the accused persons beyond reasonable doubt. Hence, the accused persons deserves to be acquitted of the offences leveled against them.

**ORDER**

10. ***In view of the above discussions and reasons it is held that the prosecution has failed to prove the offences leveled against the accused persons & as such the accused persons are acquitted of the charges leveled against them under section 341/323/294/506/427/34 of IPC and they are thereby set at liberty.***

**Make necessary entry in the judgment register.**

The seized articles be handed over to the custody of the actual owner.  
Given under my hand and seal of this court on this the 30<sup>th</sup> day of MAY,  
2019 at MARGHERITA COURT.

SALEH AHAMMAD  
SUB-DIVISIONAL JUDICIAL MAGISTRATE (M),  
MARGHERITA, TINSUKIA

**APPENDIX:**

**WITNESSES FROM THE PROSECUTION SIDE:**

PW1: SRI HEMRAJ LIMBU

**WITNESSES FROM THE DEFENCE SIDE: NIL**

**PROSECUTION EXHIBITS:**

EXT 1 IS THE FIR

EXT 1 (1) IS THE SIGNATURE OF PW1

EXT 2 IS THE SEIZURE LIST

EXT 2(1) IS THE SIGNATURE OF PW1

**DEFENCE EXHIBITS: NIL**

SALEH AHAMMAD  
SUB-DIVISIONAL JUDICIAL MAGISTRATE (M),  
MARGHERITA, TINSUKIA