

IN THE COURT OF JUDICIAL MAGISTRATE FIRST
CLASS, UDALGURI.

Present: Smt. Taslima Firdosa,
J.M.F.C., Udalguri.

G.R.NO. 919/20 (PRC No. 428/21).

U/S 147/149/341/323/506 I.P.C.

STATE OF ASSAM

Vs

1. Sri Rajdeep Khaklari
2. Sri Akim Daimari
3. Sri Eyakub Daimari
4. Sri Khungur Khaklari
5. Sri Jalu Daimari @ Lohit

.....Accused Persons.

Advocate Appeared:-

For Prosecution: Smti. Dipali Deka, A.P.P.

For Defence: Sri D. Kr. Boro.

Charge Framed on: 26.11.2021.

Evidences recorded on: 20.12.2021.

Arguments heard on: 20.12.2021.

Judgment delivered on: 20.12.2021.

J U D G M E N T

1. Prosecution story in brief is that Sri Mukul Rabha lodged an F.I.R. before the Kalaigaon P.S., alleging inter-alia that on 18/08/2020 at 6.00 PM that as he

and Sri Kashmiri Khaklary of Jhargaon were busy in a discussion at a rented house at Auxilaim situated at Tangla Bangseraia when suddenly the accused persons forming an un-lawful assembly attacked and physically assaulted the informant with a "lathi" and physically assaulted Kashmiri Khaklary and took them to Kadamguri village and there also the accused persons physically assaulted and hurt the informant on his head and shaved and cut the hair of Sri Kashmiri Khaklary and threatened to kill them in future. The informant has further stated in the F.I.R. that the accused persons have snatched away both of the mobile phones.

2. On receipt of the F.I.R., Kalaigaon P.S. Case No.81/2020 was registered and investigated into. No seizures were made during the investigation. On completion of the investigation the I.O. has submitted the Charge sheet U/S 147/149/341/323 of I.P.C. against the accused person, 1. Sri Rajdeep Khaklari, 2. Sri Akim Daimari, 3. Sri Eyakub Daimari, 4. Sri Khungur Khaklari and 5. Sri Jalu Daimari @ Lohit.
3. On their appearance before the Court, copies of relevant documents were furnished to them as per sec 207 Cr.P.C. After hearing both the sides and upon perusal of the case record and case diary grounds for presuming that the accused persons, 1. Sri Rajdeep

Khaklari, 2. Sri Akim Daimari, 3. Sri Eyakub Daimari, 4. Sri Khungur Khaklari and 5. Sri Jalu Daimari @ Lohit has committed an offences triable U/S-147/149/341/323/506 of I.P.C. were found and accordingly charges under the said sections were framed against the accused persons. The particulars of offence U/S 147/149/341/323/506 of I.P.C. were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

4. During the trial prosecution side examined 1 prosecution witness (P.W.s.). The learned A.P.P. had prayed before this Court to dispense with the remaining P.W.s as it is necessary according to the nature of this case. Accordingly, the examination of the rest of the P.W.s was dispensed with. The examination of the accused persons U/S 313 Cr.P.C. are dispensed with as no incriminatory materials were found against them.
5. I have heard arguments for both the sides and had also perused the case record.
6. **POINTS FOR DETERMINATION:-**
 - I. Whether the accused persons on or about 18.08.2020 at around 6.00 PM at Kadamguri, Mouza- Silpata, P.S.- Kalaigaon, District-Udalguri were members of an unlawful assembly and in prosecution of the common

object of such assembly namely to physically assault and wrongfully restrain the informant/Sri Mukul Rabha and his friend Smti. Rashmika Khaklari@ Kasmiri Khaklary, committed the offence of rioting and that thereby committed the offence punishable U/S 147 of (the Indian Penal Code and within the cognizance of this Court) I.P.C.?

- II. Whether the accused persons on or about 18.08.2020 at around 6.00 PM at Kadamguri, Mouza- Silpata, P.S.- Kalaigaon, District-Udalguri were members of an unlawful assembly and in prosecution of the common object of which, namely, to physically assault and wrongfully restrain the informant/ Sri Mukul Rabha and his friend Smti. Rashmika Khaklari @ Kasmiri Khaklary, one of the members of your unlawful assembly caused simple hurt to the informant/ Sri Mukul Rabha and his friend Smti. Rashmika Khaklari @ Kasmiri Khaklary and that thereby U/S 149 Indian Penal Code, guilty of causing the said offence which is punishable under Section 323 of I.P.C.?
- III. Whether the accused persons on or about 18.08.2020 at around 6.00 PM at Kadamguri , Mouza- Silpata, P.S.- Kalaigaon, District-Udalguri forming an unlawful assembly with a

common object, wrongfully restrained Sri Mukul Rabha and his friend Smti. Rashmika Khaklari@ Kashmiri Khaklary and that thereby committed an offence punishable under Section 341 of I.P.C.?

- IV. Whether the accused persons on or about 18.08.2020 at around 6.00 PM at Kadamguri, Mouza- Silpata, P.S.- Kalaigaon, District- Udalguri forming an unlawful assembly with a common object voluntarily caused hurt to Sri Mukul Rabha and his friend Smti. Rashmika Khaklari @ Kashmiri Khaklary and that thereby committed an offence punishable under Section 323 of I.P.C.?
- V. Whether the accused persons on or about 18.08.2020 at around 6.00 PM at Kadamguri, Mouza- Silpata, P.S.- Kalaigaon, District- Udalguri forming an unlawful assembly with a common object committed criminal intimidation by threatening the informant/Sri Mukul Rabha and his friend Smti. Rashmika Khaklari @ Kashmiri Khaklary with injury of death or grievous hurt to their person by physically assaulting them and by cutting the hair of Smti. Rashmika Khaklari @ Kashmiri Khaklary with intent to cause alarm to them or to cause them to do an illegal act or to

omit to do a legal act which they were legally bound to do and that thereby committed an offence punishable under Section 506 of I.P.C.?

DISCUSSION, DECISION AND REASONS
THEREOF:-

Now I have appreciated all the evidence and materials on record in order to decide the above mentioned points.

7. P.W.1, Sri Mukul Rabha has deposed that he is the informant of this case. He knows the accused persons, they are his co-villagers. That around 1 year ago due to some misunderstanding, he had filed this case out of rage and anger against the accused persons. That even though he had sustained injuries in that incident however there is no fault of the accused persons behind that. That he has now amicably settled the matter with the accused persons and does not want to continue with this case. The F.I.R. is exhibited as Ext.1 wherein Ext.1(1) is his signature.

In his cross examination he has stated that the accused persons did not commit any offence against him and Kashmiri Khaklary. That it was just a small misunderstanding between them. That he has no objection if the accused persons are acquitted from this case.

8. From the appreciation of the evidences on record it appears that the prime witness/informant has not supported the contents of the F.I.R. and from the evidence given by the informant, it is apparent that the prosecution has failed to assert any credible evidence to attract the ingredients of the section charged against the accused persons. Thus the Point No.I, II, III, IV and V are decided in negative.
9. In view of the aforesaid discussions, it is hold that the prosecution has failed to prove the charges against the accused persons, 1. Sri Rajdeep Khaklari, 2. Sri Akim Daimari, 3. Sri Eyakub Daimari, 4. Sri Khungur Khaklari and 5. Sri Jalu Daimari @ Lohit beyond reasonable doubt and as such, they are acquitted from the charges U/S 147/149/341/323/506 I.P.C. and thus they are set at liberty forthwith.

Order

10. **The accused persons namely 1. Sri Rajdeep Khaklari, 2. Sri Akim Daimari, 3. Sri Eyakub Daimari, 4. Sri Khungur Khaklari and 5. Sri Jalu Daimari @ Lohit are acquitted from the charges of this case U/S-147/149/341/323/506 I.P.C. and are set at liberty.**

11. The bail bonds for the accused persons namely 1. Sri Rajdeep Khaklari, 2. Sri Akim Daimari, 3. Sri Eyakub Daimari, 4. Sri Khungur Khaklari and 5. Sri Jalu Daimari @ Lohit shall be in force for next six (6) months.
12. Judgment is pronounced in open court. Case is disposed of on contest.

Given under my hand and seal of this Court on this the 20th day of December, 2021 at Udalguri.

Judicial Magistrate 1st Class,
Udalguri.

APPENDIX

1. **Prosecution Witnesses:-**

P.W.1: Sri Mukul Rabha.

2. **PROSECUTION EXHIBITS:-**

Ext.1: F.I.R.

3. **DEFENCE WITNESSES:-**

NONE

4. **DEFENCE EXHIBITS :-**

NONE.

Judicial Magistrate 1st Class,
Udalguri.