

**COURT OF MUNSIFF NO-4 cum JUDICIAL MAGISTRATE FIRST CLASS
KAMRUP (M)**

G.R CASE 12113 of 2014

U/S 341/324 of IPC

STATE

V

SAMBHU DAS @ BABU.....ACCUSED

PRESENT: - SUNDEEP KASHYAP DAS, A.J.S

JUDICIAL MAGISTRATE FIRST CLASS, KAMRUP (M)

FOR THE PROSECUTION:

Smti JITUMONI TAMULI

.....A.P.P. FOR THE STATE

FOR THE DEFENCE

**BHABANI DEVI, PREM CHANDRA, KAMAL DEKA, RUPAMJYOTI NATH, R.
DAS**

.....ADVOCATE FOR THE ACCUSED

EVIDENCE RECORDED ON: -28.09.2016

ARGUMENTS HEARD ON: - 16.02.2017

JUDGMENT DELIVERED ON: -08.03.2017

JUDGMENT

BRIEF FACTS OF PROSECUTION'S CASE

1. On, 19.11.2014, the informant **SANJAY PAL** had lodged an F.I.R stating inter alia that on the said date at about 10 a.m., while he was on his way, the accused, Sri **SAMBHU DAS @ BABU DAS** wrongfully restrained him and came to assault him with a knife. When the informant tried to resist him, the said accused person had attacked him with a knife. As such, he sustained injuries. Hence, the informant filed this instant case for taking necessary action.

INVESTIGATION

2. On receipt of *ejahar*, the police registered a case P.S 672/14. After completion of investigation, the police submitted a charge-sheet for the offence under section 341/323 of Indian Penal Code (hereinafter referred to as 'IPC') against the accused person namely *Sri SAMBHU DAS @ BABU*

APPEARANCE OF THE ACCUSED PERSON

3. The accused was called upon to enter trial and upon his appearance, copies of relevant documents were furnished to him u/s 207 CrPC.

CHARGE AGAINST THE ACCUSED PERSON

4. Considering the relevant documents and hearing both parties, charge u/s 341/324 of IPC has been stated to the accused to which he pleaded not guilty and claimed to be tried.

WITNESSES EXAMINED and DOCUMENTS EXHIBITED

5. The prosecution examined (1) witness and exhibited 3 (three) no of documents.

EXAMINATION OF THE ACCUSED PERSON

6. The examination of the accused person u/s 313 of Cr.P.C has been dispensed with as there were no incriminating materials against them

POINTS FOR DETERMINATION

a. Whether, on the 19th day of November, 2014 at about 10 a.m., the accused, Sri SAMBHU DAS @ BABU DAS wrongfully restrained the informant, Sri SANJAY PAL and thereby committed an offence triable u/s 341 of Indian Penal Code?

b. Whether on the said date and on the same time, the said accused person, voluntarily caused hurt to the victim, by means of a knife, which is an instrument of cutting and thereby committed an offence punishable u/s 324 of IPC?

DISCUSSION, DECISIONS AND REASONS THEREOF

EVIDENCE FOR PROSECUTION

EVIDENCE OF P.W.1

7. P.W.1, Sri **RAM RAUTIA** has stated that the O/C of Chandmari P.S endorsed him to carry out the investigation. He visited the place of occurrence and prepared the sketch map. He recorded the statement of the informant and the witnesses' u/s 161 of Cr.P.C. He sent the victim for medical examination. The informant showed him the place of occurrence. He collected the medical report. He arrested the accused and submitted chargesheet after finding sufficient materials against him.

JUDICIAL DETERMINATION

8. The standard of proof in criminal law is to prove the guilt of the accused beyond reasonable doubt. Basic allegations against the accused reveals from the story of prosecution as stated above. Question arises whether prosecution has been able to discharge the burden? The answer is NO. The prosecution manage to only one witness, i.e. the Investigating Officer. He merely described the manner in which he conducted the investigation which is not enough to prove the allegations against the accused. Several opportunities were granted to the prosecution to bring the witnesses. However, their attendance could not be secured despite the most assiduous of efforts. The informant cum victim could have been the best possible evidence to narrate the entire chain of events. Prosecution has alleged of injuries sustained by informant but it failed to bring either the Medical Officer or produce any medical document to prove the alleged injuries. Since, witnesses could not be brought to dock to support the facts alleged by prosecution, therefore, I can safely conclude that prosecution failed to prove the basic ingredients to warrant conviction against the accused person.

9. Situated thus, it is found that the prosecution has failed to implicate the accused person of any offence.

DECISION: - *The points are decided in negative and goes in favour of the accused person*

ORDER

In view of the discussions made above and the decisions reached in the foregoing points for determination, it is held that the prosecution has failed to prove beyond reasonable doubt that the accused person Sri **SAMBHU DAS @ BABU** has committed the offence under section **341/324** of IPC as alleged and as such the accused person is acquitted of the charge under section **341/324** of IPC on benefit of doubt and they be set at liberty forthwith.

The bail bond of the accused person shall remain in force for another six months from today.

This judgment is given under my hand and seal of this court on this 08th day of MARCH, 2017

The case is disposed of on contest.

SUNDEEP KASHYAP DAS

JUDICIAL MAGISTRATE FIRST CLASS

KAMRUP (M)

APPENDIX

LIST OF PROSECUTION WITNESS

PW1- Sri *RAM RAUTIA*

LIST OF DEFENCE WITNESS

DW- NONE

LIST OF PROSECUTION EXHIBITS/DOCUMENTS

EXT-1- *F.I.R*

EXT-2-*SKETCH MAP*

EXT-3-*CHARGESHEET*

LIST OF DEFENCE EXHIBITS/DOCUMENTS

NONE

SUNDEEP KASHYAP DAS

JUDICIAL MAGISTRATE FIRST CLASS

KAMRUP (M)