

IN THE COURT OF JUDICIAL MAGISTRATE 2ND COURT AT
ALIPURDUAR

Present : Smt. Rafat Ara Qamar;
J.O. No. 001457
J.M.2nd Court at Alipurduar

G.R. Case No. 352/2018

TR No. 147/2019

Reg. No. 731/2019

C.N.R. No. WBJP06-003826-2019

(Arising out of Alipurduar PS Case No.93/2018 dtd.02.03.2018)

STATE

VS

1. UTTAM DUTTA

.....accused person

Under section 341/323/379/506 of Indian Penal Code

Date of Delivery of Judgment : 04.12.2024

Details of FIR / Crime Police Station

Complainant	State of West Bengal
Represented by	Mr. JAYANTA PANDIT
Accused person	UTTAM DUTTA
Represented by	Ld. Advocates ASIM DAS RAJIB SAHA

Date of Offence	02.03.2018
Date of FIR	02.03.2018
Date of Charge Sheet	02.03.2018

Date of Commencement of Evidence	04.12.2024
Date on which Judgment is reserved	
Date of Judgment	04.12.2024
Date of Sentencing order, if any	

Accused Details

Rank of the accused	Name of the accused	Date of arrest	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial for purpose of section 428 Cr.PC
01	UTTAM DUTTA			U/S 341/323/379/506 IPC	Acquitted	NIL	N/A

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution

Rank	Name	Nature of evidence Eye witness, Police witness, Expert witness, Medical witness, Panch witness, Other witnesses
1.	Sukha Ranjan Sarkar	Defacto complainant

B. Defence witnesses, if any: NIL

Rank	Name	Nature of evidence Eye witness, Police witness, Expert witness, Medical witness, Panch witness, Other witnesses

C. Court witnesses, if any: NIL

Rank	Name	Nature of evidence Eye witness, Police witness, Expert witness, Medical witness, Panch witness, Other witnesses

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution Exhibits

SL No.	Exhibit No.	Description
	p-1/pw-1	Signature on the written complaint.

B. Defence Exhibits : NIL

SL No.	Exhibit No.	Description

C. Courts Exhibits : NIL

SL No.	Exhibit No.	Description

D. Material Objects Exhibits : NIL

SL No.	Exhibit No.	Description

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

Prosecution's case :

1. The matrix of prosecution case is that on 02.03.2018 at around 15.00 hrs the above noted accused person suddenly assaulted to the complainant with fist and blows and also snatched one silver chain from his neck and threatened him with dire consequences..

Investigation :

2. On receipt of the said F.I.R., Officer-in-Charge of Alipurduar P.S.

registered the case as Alipurduar PS case No. 93/2018 dtd. 02.03.2018 under section 341/323/379/506 of Indian Penal Code (hereinafter referred to as I.P.C.) and subsequently, the case was endorsed to ASI Prabhat Paul for causing investigation of the instant case.

3. ASI Prabhat Paul being armed with the directives of his superior official, took-up the task of the investigations of the instant case. On conclusion of investigation and after finding *prima facie* materials against the accused person named in the F.I.R., the Investigating Officer (hereinafter referred to as I.O.) of the case submitted charge sheet bearing charge sheet No. 2018 dtd. 02.03.2018 under sections 341/323/379/506 of I.P.C.

Trial:

4. One accused person has surrendered before this court on 19.04.2018 this Court and he was enlarged on bail on the same date by this Court.

5. Thereafter, the accused person was examined on 16.10.2019 and the substance of accusation U/S 341/323/379/506 of IPC was read over and explained to the accused person in Bengali to which he pleaded not guilty by saying 'Nirdosh' and claimed to be tried.

Hence, the trial.

POINTS FOR CONSIDERATION

- 1) Whether the accused person is guilty of offence punishable under sections 341/323/379/506 of I.P.C. or not?
- 2) Whether the prosecution has been able to bring home charge against the accused person or not?

DECISION WITH REASONS

6. All points for determination are taken up together for consideration for the sake of convenience and to avoid unnecessary repetition. Let us

now proceed to scan the evidence on record to come to a conclusion whether the prosecution has been able to bring home the charge framed against the accused person by production of convincing and satisfactory evidence of required standard.

Oral evidence :

7. The prosecution, however, has been able to examine one witnesses, out of six witnesses cited in the charge sheet and their names and prosecution witness number is as under-

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

8. PW 1 namely Sukha Ranjan sarkar has stated that incident happened in the year 2018, many years ago some misunderstanding have taken place among them. At that time he out of rage had filed the written complaint against the accused person. With the intervention and well wishers the matter was amicably settled.

In his cross examination he stated that he cannot say the contents of the written complaint and he has no objection if the accused person acquitted from this case.

Defence :

10. The defence case, as it emerged from the cross-examination of the witnesses and the examination of the accused person u/s 313 Cr.P.C., was a plain denial of the prosecution case and a plea of innocence.

Evaluation of evidence :

11. There is specific allegation against the accused person that on 02.03.2018 at around 15.00 hrs the above noted accused person suddenly assaulted to the complainant with fist and blows and also snatched one silver chain from his neck and threatened him with dire consequences. However, at the time of trial the prosecution was not able to prove the guilt of the accused beyond hilt.

Conclusion :

12. The golden principle of criminal jurisprudence is that the accused person is presumed to be innocent until the guilty is proved. It means that the prosecution has got the liability to prove its case beyond reasonable doubt. It is not the case that the accused person has to prove his innocence rather the duty has been cast upon the prosecution to prove its case. The prosecution has shouldered the responsibility of proving its case by adducing only one witnesses i.e. the de-facto complainant / victim and one independent witness, who have totally negated the case of the prosecution. The de-facto complainant and the witness have not corroborated the prosecution case and they also are not interested to proceed with this case further. The prosecution case, therefore, suffers from infirmity and inconsistency and it would be improper and unjust on the part of the Court to convict the accused on the basis of such weak piece of evidence.

12. Considering all aspect, it is quite clear to hold that prosecution has failed miserably to substantiate its case and allegations against the accused person and as such the accused person is entitled for acquittal.

Hence, it is

ORDERED

that the accused person namely **UTTAM DUTTA** is found and held not guilty of offence punishable U/S 341/323/379/506 of I.P.C., and accordingly, he is acquitted under section 248 (1) of Cr.PC.

He is discharged from his bail bonds.

Surety be discharged accordingly.

BC II to make note in the relevant register.

Update CIS

D/C by me,

Judicial Magistrate, 2nd Court,
Alipurduar

Judicial Magistrate, 2nd Court,
Alipurduar