

FORM -:- A

IN THE COURT OF METROPOLITAN MAGISTRATE, 20TH COURT, CALCUTTA
PRESENT: Smt. CHANDRANI CHAKRABORTY (Magistrate) J.O Code WB 1150
[Case No- G.R. CASE NO- 342 of 2022] [Reg. No-342/2022]
T. R. NO. 141/22
CNR NO.
U/s. 325 of I.P.C.
[Date of Judgment] 2nd March, 2023
Taltala P.S Case No-45/2022, dated-19.04.2022, u/s. 325 of I.P.C.

This is a case under Section-**325** of Indian Penal Code, 1860 initiated on the basis of the complaint filed by the Complainant, **Md. Adnan Hashin, S/O- late Md. Hashin, 27, Komadan Bagan Lane, Kolkata-16** against the sole accused person (A1) as described in detail in the Pro-forma attached with the Judgment.

COMPLAINANT	-:-	STATE OF WEST BENGAL
PRESENTED BY	-:-	Ld. APP, Kolkata.
Name of accused person	-:-	
	A1	Benjamin Atkins,S/O - Tyron Atkins, 1, Gardener Lane, Kolkata-14
Represented by	-:-	Ld. Advocate, namely, Somnath Ghosh of CMM'S COURT, CALCUTTA

FORM -:- B

Date of Offence	-:-	18.04.2022
Date of FIR	-:-	19.04.2022
Date of Charge-Sheet	-:-	15.06.2022
Date of Framing of Charge	-:-	06.12.2022
Date of commencement of evidence	-:-	08,02.2023
Date on which judgment is reserved	-:-	N/A
Date of the judgment	-:-	02.03.2023
Date of the sentencing order, if any	-:-	N/A

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-::- ACCUSED DETAILS -::-

Rank of the accused	Name of 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 CrPC.
A 1	Benjamin Atkins	THE ACCUSED PERSON SURRENDERED BEFORE THE COURT ON 20.04.2022	THE ACCUSED PERSON WAS RELEASED ON BAIL ON 20.04.2022	U/S 325 OF I.P.C	THE ACCUSED PERSON IS ACQUITTED FROM THE ACCUSATIONS OF THE CASE	N.A	N.A

FORM -::- C

-::- LIST OF PROSECUTION/DEFENCE/COURT WITNESSES -::-

A. PROSECUTION :-

Rank	Name	Nature of evidence (eye witness, police witness, expert witness, medical witness, panch witness, other witness)
PW 1	MD. ADNAN HASHIN	De facto complainant
PW2	MD. SALIM SIDDIQUE	OTHER WITNESS

B. DEFENCE WITNESSES, IF ANY :-

Rank	Name	Nature of evidence (eye witness, police witness, expert witness, medical witness, panch witness, other witness)
	N.A	

C. COURT WITNESSES, IF ANY :-

Rank	Name	Nature of evidence (eye witness, police witness, expert witness, medical witness, panch witness, other witness)
	N.A	

-:- LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS -:-

(A). PROSECUTION :-

Sl. No.	Exhibit Number	Description
01.	Exhibit-P1/PW-1	The entire written complaint along with signature of PW 1

(B). DEFENCE :-

Sl. No.	Exhibit Number	Description
01.	Exhibit-D1/DW-1	
	N.A	

(C). COURT EXHIBITS :-

Sl. No.	Exhibit Number	Description
01.	Exhibit-C1/CW-1	
	N.A	

(D). MATERIAL OBJECTS :-

Sl. No.	Material Object Number	Description
01.	MO-1	
	N.A	

J U D G M E N T

1. This is a case **u/s. 325 of I.P.C** initiated on the basis of the complaint filed by the **Complainant, Adnan Hashin, S/O Late Md. Hashin, 27, Komadan Bagan Lane, Kolkata-16** against the (A1) Accused person described in the pro-forma above.

2. The Complainant, **Adnan Hashin** lodged a written complaint in Taltala P.S which contained that on 18.04.2022 at about 17:00 hrs, the accused person physically assaulted the complainant's uncle namely **Salim Siddique, S/O- Noor Md. Of 27, Komedan Bagan Lane, Kolkata-16** following a hot altercation between them over blowing car horn by the complainant's uncle being a Taxi driver.

At the time of hot altercation, the accused person knocked the uncle of the Complainant down with his head forcefully. As a result, Salim Siddique fell on road there and sustained injury on his left hip. He was removed to NRS Hospital and it be found that he had fracture injury on his left hip. Later he was treated at Medview Nursing Home, 74 Broad Street Kolkata-19. The complaint was registered as **Taltala P.S Case No-45 dt: 19.04.2022 u/s. 325 of I.P.C** against the sole accused person(A1) of this case.

3. The FIR name accused person was arrested and produced before the Ld. Court when he was released on bail. During investigation, the I.O visited P.O, recorded their statements u/s 161 Cr.p.c, and collected sufficient evidences in support of commission of the offence by the accused person and on completion of investigation, the charge sheet was submitted u/s. 325 of I.P.C against the accused person (A1) named in the F.I.R.

4. The case has then transferred to this Court for trial and disposal. The substance of accusations and that of the ingredients of the offences u/s. 325 of I.P.C were read over and explained to the sole accused person (A1) in Bengali to which he pleaded “not guilty” by saying 'ami nirdosh' and claimed to be tried.

5. In this case, the Prosecution examined two (02) witnesses amongst nine (09) witnesses in all.

The **PW1, Md. Adnan Hashin** has stated that the case incident happened in the month of Ramdan before two years back when he was coming for Iftar in his house. The friends of the witness informed him over phone, that his uncle namely Salim Siddique was lying on Doctor lane in front of Annpurna Misti Bhandar when he rushed to that place and rescued his uncle and sent him to NRS hospital for treatment who had fracture injury on his waist.

The uncle of the PW1 told him that he was pushed by the accused Atkin and fell on road as well as sustained fracture injury on his waist. Thereafter the witness went to Taltala P.S to lodge FIR. The witness has admitted that he did not see anything about the case incident and has no personal knowledge about the case incident. The uncle of the PW1, namely Salim Siddique is more than 55 years old. The PW1 has admitted that the Doctor lane (P.O of this case) is populated area. The witness has admitted that in case of sudden blow of horn, a person startled. The witness has admitted during his cross-examination that he cannot remember the contents of the written complaint lodged by him.

The **PW2, Md. Salim Siddique**, has stated that on 18.04.2022, the accused person abused him in filthy languages, dragged him from his vehicle, assaulted him with fists and blows, pushed him on road for which reason he sustained fracture injury on waist and operated also. The witness has admitted that he has no medical documents in support of his treatment in NRS hospital, Kolkata. The witness has stated in his cross-examination that he has no allegations against the accused person and the complaint was lodged out of misunderstandings only.

No other witness was examined by the Prosecution side.

6. The Accused person(A1) has not been examined u/s 313 Cr.P.C as there was nothing incriminatory in evidence of the witnesses of this case against him.

7. Heard the Argument from both sides.

The Ld. App has submitted that the Prosecution witnesses did not support their case. The Ld. Advocate for the accused side has submitted that the Prosecution side has failed to establish the guilt of the accused person under the penal section of law with which the accused is tried in this case. The Ld. Advocate for the accused person has prayed for an order of acquittal of the accused person from the accusations of the case.

Point for determination

8). a) Whether the guilt of the accused person has been proved u/s. 325 of I.P.C?

b). Whether the accused person can be made liable for committing the offence u/s. 325 of I.P.C or not?

DECISION WITH REASONS

9). **Point no. 1:**

Before going to discuss the main points for consideration, the relevant provisions of law under which the allegations have been brought against the accused person of this case should be discussed in detail.

Section-325 I. P. Code reads as under:

Punishment for voluntarily causing grievous hurt :

Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

To prove offence u/sec 325 of I. P. Code, Prosecution has to prove:

- (a) That the accused caused hurt of any of the kinds described in sec. 320 of I.P.Code;**
- (b) That the accused intended or knew that he was likely to cause grievous hurt of any kind so described;**
- (c) that the accused did so voluntarily.**

10. In this case, neither the Complainant nor the other Prosecution witness have corroborated the Prosecution case.

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The Complainant, PW2, has stated that on 18.04.2022, the accused person abused him in filthy languages, dragged him from his vehicle, assaulted him with fists and blows, pushed him on road for which reason he sustained fracture injury on waist and operated also. The witness has admitted that he has no medical documents in support of his treatment in NRS hospital, Kolkata. The witness has stated in his cross-examination that he has no allegations against the accused person and the complaint was lodged out of misunderstandings only. The PW1, nephew of the Complainant did not see the incident by his own eyes and lodged complaint as it has been narrated by the Complainant to him. There is no corroboration of the facts of the complaint from the evidence of the Prosecution witnesses. The Prosecution case has not been established in any manner and to any extent against the accused person which is the cardinal rule of the Criminal Jurisprudence.

11. It is the duty of the Prosecution to prove the case against the accused person. The Complainant is the vital witness in this respect to establish the fact. The other witnesses are the corroborating witnesses. The allegations against the accused person should not only be proved in a criminal case but it should be proved beyond all reasonable doubts.

The benefit of doubt and failure to prove the guilt by Prosecution side will certainly go in favour of the accused person. The Prosecution has failed to adduce any cogent evidence against the accused person in order to prove his guilt under the penal section of law which they are bound to do. The essential ingredients of the relevant penal section has already been discussed above. The initial onus of proving a criminal case against the accused person is on the Prosecution side but in this case the Prosecution has not been able to discharge even that burden so there is no need to discuss Point No-2, i.e the role of the accused side to rebut the case of the Prosecution.

12. The Prosecution has to prove the allegations u/s. 325 of I.P.C against the accused person. There is no evidence as well as proof of voluntarily causing grievous hurt to the Complainant by the accused person.

13. After scrutinizing the evidence on record, the Court is of the view that there is nothing to hold anything adverse against the accused person. There is nothing to say undoubtedly that the accused person has committed the offence u/s. 325 of I.P.C.

14. Therefore, the accused person can not be held liable for committing the offence with which he is tried in this case. Therefore, both the issues have been decided in favour of the accused person.

HENCE,
it is ,
ORDERED

that the accused person (A1) is found “not guilty” of committing any of the offence u/s 325 of I.P.C.

The accused person is therefore acquitted from the charge u/s 248(1)Cr.p.c.

The accused person be set free at liberty at once.

The surety are released from his liability of bail bond.

Bail Bond is canceled.

The victim of the case is entitled to prefer an appeal against the Judgment u/s 372 of Cr.p.c.

The victim may avail free legal assistance through legal services authorities.

Let another copy be sent to the DLSA, Calcutta.

Let a copy of the Judgment be sent to the D.M Kolkata.

Upload in CIS.

Note in register.

(Chandrani Chakraborty)
JO Code No. WB-01150
Metropolitan Magistrate
20th Court, Calcutta
02.03.2023

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