



IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,

CACHAR, SILCHAR

PRESENT: SHRI MONOJYOTI MILI, AJS

JUDICIAL MAGISTRATE FIRST CLASS, CACHAR

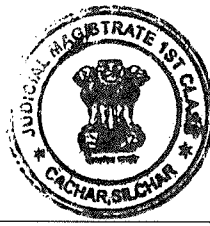
DATE OF JUDGMENT : 31.08.2024

P.R. Case No. 2327/2022

U/S 323, 379 & 34 of the Indian Penal Code, 1860

COMPLAINANT	Rajib Suklabaidya
REPRESENTED BY	Learned counsel for the complainant
ACCUSED PERSONS	Raju Gour & Ram Narayan Gour
REPRESENTED BY	Nalinaksha Nag Learned counsel for the defence


J.M.F.C
Cachar, Silchar



Date of offence	17.09.2016
Date of filing of the complaint	20.09.2016
Date of Charge-sheet	27.12.2016
Date of explanation of charge	03.08.2023
Date of commencement of evidence	16.08.2024
Date on which judgment is reserved	16.08.2024
Date of judgment	31.08.2024
Date of sentencing order, if any	xx.xx.xxxx


J.M.F.C
Cachar, Silchar

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 Cr.P.C.
1	Raju Gour			Section 323, 379 & 34 IPC	Acquitted	--	N/A
2	Ram Narayan Gour						



Mili
J.M.F.C
Cachar, Silchar

JUDGMENT



1. Introduction

The accused persons namely, Raju Gour & Ram Narayan Gour are alleged to have committed an offence punishable under section 323, 379 & 34 of IPC.

2. Prosecution Case

The prosecution case in brief is that an FIR is lodged by the informant namely Rajib Suklabaidya stating therein, *inter alia*, that on 17.09.2016 at 1.20 p.m night complainant was at Biswakarma Puja Mundab. The accused Raju Gour & Ram Narayan Gour began hot altercation with complainant about the money collection of Puja. After that when complaint was on a way to his house at Borakhi T.E, suddenly both the accused persons assaulted him with lathi and looted away his money and mobile. Hence, the case.

PRE & POST TRIAL PROCEEDINGS

3. Based on the said FIR, the police registered a case at Silchar P.S under section 323, 379 & 34 IPC and investigated into the allegation levelled against the accused persons in the FIR. After completion of investigation, the Police submitted the charge sheet against accused persons under section 323, 379 & 34 IPC.
4. After careful perusal of the case record along with the charge sheet as sufficient grounds were found to

proceed the case against the accused persons under section 323, 379 & 34 IPC



5. After careful perusal of the case record along with the charge sheet as there appeared sufficient grounds for proceeding under section 323, 379 & 34 IPC, cognizance of offences under the aforesaid section of IPC was taken against the accused persons. Later on, on the basis of the available material on record finding ground for presuming that the accused persons might have committed offences under section 323, 379 & 34 of IPC a formal charge was framed against the accused persons under aforesaid sections and particulars of the charge so framed were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried. Thereafter, copies were furnished to the accused persons as per 207 of Cr.P.C.
6. During the trial, the prosecution adduced one witness i.e. P.W1. Rajib Suklabaidya who is the informant of this case has deposed as P.W1 as follows - he lodged the case against the accused persons namely, Raju Gaur & Ramnarayan Gaur. The incident took place about 07-08 years ago regarding on some minor issues and hot altercation took place between the accused persons and himself during the altercation he got angry. Out of anger, he lodged the case against the accused at Ghungoor Out Post under Silchar Police Station. A village Bichar was held at their village under Bharakhai Tea Garden and after the said Bichar he has no grievance



against the accused persons. He does not remember the details of the incident now. Police did not record his statement. He has no objection if the accused persons are acquitted from the instant case. He has this much to say. PW1 identified Exhibit – P1/PW1 as the FIR, Exhibit P1(1)/PW1 as his signature.

7. A joint compromise petition vide No.09/909 is also filed on behalf of both the informant and the accused persons stating therein that the matter is already settled amongst themselves in the Bichar with the intervention of elderly people. As such, the informant is not willing to proceed with the case and prayed to pass a necessary order.
8. Other P.Ws did not turned up and accordingly, prosecution evidence is closed after hearing the Learned APP.

9. Defence plea :

Cross examination is declined and the examination of accused persons under section 313 of Cr.PC has been conducted wherein they denied all the incriminating allegations against them. The accused persons declined to adduce any defence witness.

POINTS FOR DETERMINATION :

10. On perusal of the case record and entire material available on record the following points for determination have been framed :-
 - (i) Whether the accused persons voluntarily caused hurt to the informant?



(ii) Whether the accused persons had stolen away money and mobile set of the complainant as alleged?

(iii) Whether the accused persons have committed any offence punishable under section 323, 379 & 34 IPC in furtherance of their common intention?

DISCUSSION, DECISION & REASON THEREOF

11. Perusal of the evidence deposed by P.W1 who is the informant himself reveals that there was some minor issues and he lodged the case out of anger against the accused persons namely Raju Gour & Ram Narayan Gour. P.W1 stated that the matter has been amicably settled amongst themselves in a village Bichar and he does not want to proceed with the case any further and he has no objection if the accused persons are acquitted from the instant case.

12. In view of the evidence deposed by the prosecution witness it appears that there is no incriminating act on the part of the accused persons as mentioned in the charge sheet. In the facts and circumstances, in absence any rebuttable evidence proving existence of any incriminating act on the part of the accused persons as alleged in the case and for the reasons discussed above all the points for determination mentioned in para No.10 are decided in the negative.

13. Thus in the present case, in absence of credible material or any other reliable witness the prosecution side has



miserably failed to prove their case in their favour and failed to establish the guilt of the accused persons in any manner. Therefore, I deem it fit and proper to hold that the accused persons namely Raju Gour & Ram Narayan Gour in the instant case are not guilty of any offences under section 323, 379 & 34 IPC.

14. Accordingly, in view of the above discussions and reason thereof, the accused persons namely Raju Gour & Ram Narayan Gour are acquitted from the offence under section 323, 379 & 34 IPC as alleged in this case.

15. The judgment is delivered in open court by reading out the operative part of the judgment and explaining the substance of the same in a language in which it is understood by the accused persons.

ORDER

16. In the light of the above discussion, decision and reasons mentioned therein, I hereby hold and declare that the accused persons namely Raju Gour & Ram Narayan Gour are acquitted from the offences punishable under section 323, 379 & 34 IPC and accordingly, they are set at liberty forthwith.

17. Let a copy of this judgment be given free of cost to the both sides.

18. The bail bond shall remain in force for 06 (six) months from now.

19. Let the seized article if any be disposed of as per law.

J.M.F.C.
J.M.F.C
Cachar, Silchar



20. This case bearing No. P.R. Case No. 2327/2022 is disposed off accordingly.

Given under my hand & seal of this Court on this 31st August, 2024.


Monojyoti Mili, AJS
Judicial Magistrate 1st Class
Cachar, Silchar, Assam

J.M.F.C
Cachar, Silchar

APPENDIX



LIST OF COMPLAINANT/DEFENCE/COURT WITNESSES

A. Complainant/Prosecution

RANK	NAME	NATURE OF EVIDENCE
PW1	Rajib Suklabaidya	Deposition

B. Defense witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
NIL	NIL	NIL

C. Court witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
NIL	NIL	NIL

[Signature]
J.M.F.C
Cachar, Silchar



LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution/Complainant:

Sr. No.	Description	Exhibit Number
1	FIR	P1/PW1
2	Signature of the Informant	P1(1)/PW1

B. Defense:

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

D. Material Objects:

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL



J.M.F.C.
Cachar, Silchar
(SIGNATURE OF THE MAGISTRATE)

IN THE COURT OF: Civil Judge (Jr.Div.) No. 4 cum-JMFC, Cachar, Silchar

Present : Shri Monojyoti Mili ,AJS

PRC CASE NO. 2327 of 2022

Sl. no	Date	Order	Signature	Office action
	31-08-2024	Today the matter is fixed for SD/Judgment. Accused persons namely Raju Gour & Ram Narayan Gour are present. The accused persons have been examined under section 313 Cr.PC. They have denied all the incriminating questions and allegations. The Judgment is prepared on the basis of material available on record and the same is pronounced in the open Court. The operative part of the Judgment is read over and explained to the accused persons in the language in which it is understood by the accused persons. Vide this judgment the accused persons namely Raju Gour & Ram Narayan Gour are held not guilty of the offence U/S 323, 379 & 34 as alleged and hence, they are acquitted from the alleged offences accordingly. The Judgment is written in separate sheets and tagged with the case record. By this Judgment the instant case is disposed of today.	 JMFC Cachar, Silchar	