

HEADING OF JUDGMENT

**IN THE COURT OF : JUDICIAL MAGISTRATE 1st CLASS,
3rd COURT, Bishnupur, Bankura.**

PRESENT : Ms. Sosanna Rai (WBJs)(WB 1291)

G.R. Case No. 236 OF 21

(T.R. No. 2093 OF 22)

Reg. No. 844 OF 22

CNR No. WBBK06-001295-2022

Kotulpur P.S. Case No. 69 of 21 dt. 19.03.21

U/S 341/323/506/34 of Indian Penal Code, 1860.

State of West Bengal

.....Prosecution

VERSUS

1. Minati Bandhopadhyay

2. Sitaram Bandhopadhyay

3. Gopinath Bandhopadhyay

.....Accused persons

Judgment is delivered on 09.01.25

The facts of the case as reflected from the written complaint dated 19.03.21 is that on 02.03.21 at about 19:00 hrs the accused persons in furtherance of common intention wrongfully restrained and assaulted the complainant and his wife with fist and blows and threatened them with dire consequences. As such incident was reported to Kotulpur P.S. After receiving the complaint O.C endorsed the same to the I.O. of this case for investigation.

I.O. took up the investigation and after completion of investigation he has submitted charge sheet being No. 86 of 21 dt. 29.04.21 under section 341/323/506/34 of I.P.C against accused persons. On submission of the Charge Sheet, cognizance was taken and after service of copies to the accused person u/s. 207 Cr P.C the case record was transferred to the file of this Court for trial and disposal. After hearing the learned lawyers of both sides and on perusal of the evidence on record the accused persons were examined under section 251 of Cr.Pc. Accordingly, the substance of accusation u/s U/S 341/323/506/34 of IPC was read

over and explained to the accused persons in Bengali and was asked as to whether they wanted to plead guilty or had any defence to make out to which the accused persons pleaded not guilty and chose to be tried. Therefore the trial of this case started.

The prosecution has been able to bring forth only two witnesses. On the prayer of the prosecution and considering the state of record and for speedy disposal of the case the evidence of prosecution was closed as this case is pending for long.

Accused persons were examined u/s 313 of Cr.P.C. wherein they claimed themselves innocent and denied to adduce evidence from their side.

Written complaint along with signature of the complainant upon the written complaint has been marked as Exhibit. 1.

Points for Consideration

- a) Whether the prosecution has been able to prove the charges against the accused persons?
- b) Whether the accused persons are liable to be punished under section 341/323/506/34 of I.P.C ?

Decision with Reasons

For the sake of brevity of our scrutiny and to avoid unnecessary repetition both the points for determination are clubbed together for consideration. Let us delve to scan the evidence on record to come to the conclusion as to whether or not the prosecution proved its case against the accused persons.

In the instant case complainant was examined as P.W. 1 wherein in his examination- in- chief he stated that he lodged a complaint against the accused persons at Kotulpur PS. He further stated that there was some scuffling and verbal altercation took place in between him and with the accused persons . Accused also assaulted his wife with fist and blows as a result she sustained minor pain injury and treated at Gogra Hospital. Written complaint along with the signature of the complainant upon the written complaint has been marked as Exhibit. 1. PW. 1 was cross-examined by the Ld. Defence Counsel wherein he stated that he does not

know the contents of the complaint and he lodged this case due to some misunderstanding with the accused person. Additionally, he deposed that his wife sustained injury as she fell down on the ground of her own during scuffling.

P.W. 2 stated that her husband lodged this case against the accused persons and there was some scuffling and verbal altercation took place in between her husband with the accused persons. Accused persons also assaulted her and as a result she sustained pain injury and treated herself at Gogra Hospital. PW. 2 was cross-examined by the Ld. Defence Counsel wherein she stated that she does not know the contents of the complaint and her husband lodged this case due to some misunderstanding with the accused persons. Additionally, she deposed that she sustained injury as she fell down on the ground of her own during scuffling.

In view of evidence and on perusal of case record I find that the statement of the witness is contradictory in nature. Though the complainant during his examination -in - chief stated that the accused assaulted his wife with fist and blows on the alleged date of incident as a result she sustained injury and treated herself at Gogra Hospital. Per contra during his cross he deposed that he can not say the contents of the complaint and he lodged this case due to some misunderstanding with the accused persons and his wife sustained injury as she fell down on the ground during scuffling of her own. The statement of P.W.1 / complainant is bristle with contradiction. Although, the complaint petition has been marked as Exhibit. 1 but the same has not been corroborated by the complainant. Similarly P.W 2 the wife of the complainant deposed that she sustained injury during scuffling of her own and she stated no such incriminating single sentence against accused persons. The sequence of event is not convincingly portrayed and the testimony of complainant is ridden with inconsistencies and infirmities. As such the statement of the complainant is not trustworthy. Complainant/ P.W. 1 being the vital witness terribly failed to corroborate his case. In essence, this court find no cogent ground to believed that the accused persons indeed committed an offences punishable u/s 341/323/506/34 of I.P.C .

Considering the present scenario of this case, I do not find any corroboration in respect of allegation of the complainant. It is settled principle of law that mere allegation is not enough until and unless supported or corroborated by adducing witnesses or by filing relevant documents and as far as the criminal jurisprudence is

concerned, it is the foremost duty and liability of prosecution to prove its case beyond reasonable doubt.

It is the law of the land that the prosecution is duty bound to establish its case beyond all reasonable doubts and the present case is also not an exception to that rule and from the discussions as made in the body of this judgment it is very clear that the story of the prosecution is full of shades and doubts and not at all clear and the materials indicates that the prosecution have failed to establish its case beyond reasonable doubt and for that reason this court is of the view that the accused persons facing the trial are entitled to be acquitted from this case.

This court is of the view, the allegation made by the de-facto complainant against the accused persons failed to be substantiated by cogent evidence. Accordingly, the accused persons are not liable to be punished.

Hence,

it is,

Ordered,

That the accused persons Minati Bandhopadhyay , Sitaram Bandhopadhyay and Gopinath Bandhopadhyay are found not guilty of committing any offence punishable under section 341/323/506/34 of I.P.C and the accused persons are acquitted from this case as per provisions of section 255(1) of criminal procedure code. The accused persons be released from their bail Bond at once. The sureties are also released from their liabilities.

Articles seized, if any, be disposed of according to law.

Note in trial register.

Given under my hand and seal of this court on 9th day of January 2025.

Dictated and corrected by me

**Judicial Magistrate,
3rd Court, Bishnupur.
Bankura.**

J.O.CODEWB01291

**(Sosanna Rai)
Judicial Magistrate,
3rd Court, Bishnupur.
Bankura.**

J.O.CODEWB01291