

AS01060063102023



Presented on : 21-03-2023

Registered on : 21-03-2023

Decided on : 14-08-2026

Duration : 3 years, 4 months, 24 days

IN THE COURT OF

Chief Judicial Magistrate, Kamrup Metro

At, Kamrup Metro, Guwahati

(Presided Over by Shri Baloram Kshetri)

Police Report Case PRC/376/2023

APPENDIX – 12

<u>IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,</u> <u>KAMRUP (METRO) :: GUWAHATI</u> Present: Shri Baloram Kshetri, A.J.S. Chief Judicial Magistrate, Kamrup(M), Guwahati (14.08.2026) <u>P.R. Case No. 376/2023</u> (U/S 342/323/326/379/34 of IPC) (Ref: Azara P.S. Case No. 48/2011, U/S 342/325/326/379/34 of IPC)	
COMPLAINANT :	Smt. Nazma Begum
REPRESENTED BY	Ld. Addl. P.P., Mr. Pradip Kumar Konwar
ACCUSED	1. Musstt. Salma Islam A1 2. Musstt. Rousnara Akhtar Islam A2 3. Md. Mobinoor Islam A3
REPRESENTED BY	Ld. Advocate, Mr. K.K. Talukdar

APPENDIX – 13

Date of Offence	22.02.2011
Date of FIR	22.02.2011
Date of Charge- Sheet	26.05.2022
Date of Frame of Charge	20.11.2023
Date of commencement of evidence	03.08.2026
Date on which judgment is reserved/ argument heard	14.08.2026
Date of Judgment	14.08.2026
Date of the Sentencing Order, if any	

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 Sec. 428 Cr.P.C.
A1	Musstt. Salma Islam	23.02.11	01.03.11	Section 342/323/ 326/379/ 34 of IPC	ACQUITTED		
A2	Musstt. Rousnara Akhtar Islam	23.02.11	01.03.11		ACQUITTED		
A3	Md. Mobinoor Islam	23.02.11	01.03.11		ACQUITTED		

J U D G M E N T

1. The case of the prosecution in brief, is that on 22.02.2011, the complainant namely, Musstt. Nazama Begum, lodged an FIR in Bharalumukh Police Station stating inter alia that on the same day, at about 1:00 P.M., one known person, namely, Md. Nazrul Islam of Village Shantipur, Bharalumukh, called her over the phone and asked her to come and see a plot of land at Bongara. Accordingly, she reached VIP Chowk by an auto-rickshaw, from where Md. Nazrul Islam took her to Bongara in his Maruti vehicle. After visiting the said plot of land, the complainant discussed the price of the land with 4/5 persons who had accompanied Md. Nazrul Islam. At that time, Musstt. Salma Islam, along with others, assaulted the complainant with a wooden piece, causing injuries to her person and fracturing her left hand. Thereafter, Musstt. Salma Islam, along with her driver Md. Molbinur Islam, Thikadar Md. Muslim Ali and the driver of Md. Nazrul Islam's vehicle bearing Registration No. AS-01-9596, forcibly took the complainant in a Panto car bearing Registration No. AS-01-AQ-6217 to an unknown place. Upon reaching there, as per the direction of Musstt. Salma Islam, the aforesaid persons cut the complainant's hair and again assaulted her. Thereafter, the complainant was again taken in the same vehicle and brought to the house of Md. Nazrul Islam at Bharalumukh, where Musstt. Rousan Akhtar Islam cut her hair at the root. It is further alleged that the accused persons snatched from the complainant three golden rings, one silver ring, one Neelam stone, one gold chain, cash amounting to Rs. 10,000/-, and one bag containing the key of a Godrej almirah, ATM card and other articles. Thereafter, the complainant was taken to Bharalumukh Police Station; however,

she was subsequently handed over to Azara Police Station, as the place of occurrence fell within the jurisdiction of Azara Police Station. Hence, the case.

2. On receipt of the ejahar, the O/C, Azara Police Station registered the same as Azara P.S. Case No. 48 of 2011, under Section 342/325/326/379/34 of IPC, and entrusted one SI Prabin Bora to investigate the matter. The police after investigation submitted charge sheet against the accused Musstt. Salma Islam, Musstt. Rousnara Akhtar Islam and Md. Mobinoor Islam U/s 342/323/326/379/34 of IPC.

3. Upon appearance of the accused persons, copies were furnished to them U/s 207 Cr. P.C. and after hearing both the learned counsel for the accused persons and the learned Addl. P.P. on the point of consideration of charge, the charge under Section 342/323/326/379/34 of IPC, were framed, read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

4. The prosecution side in order to prove its case examined only one witness, Sri Uddhab Nath as PW-1 who is one of the I/O of this case. After closure of the prosecution evidence, the statement of the accused persons U/s 313 Cr. P.C. was duly recorded and their plea was that of total denial. The defence declined to adduce any evidence. I have heard both the sides. I have also gone through the entire case records and the evidence adduced.

5. POINTS FOR DETERMINATION :-

i. Whether the accused persons on 22.02.2011 at about 01:00 P.M. at Bongara, under the jurisdiction of Azara P.S., in furtherance of

*their common intention, wrongfully confined the informant and took her to an unknown place and thereby committed an offence punishable U/S **342/34 of IPC**, as alleged?*

*ii. Whether the accused persons on the same date, at the same place and around the same time, in furtherance of their common intention, voluntarily caused hurt to the informant and thereby committed an offence punishable U/S **323/34 of IPC**, as alleged?*

*iii. Whether the accused persons on the same date, at the same place and around the same time, in furtherance of their common intention, voluntarily caused grievous hurt to the informant with an wooden batam and thereby committed an offence punishable U/S **326/34 of IPC**, as alleged?*

*iv. Whether the accused persons on the same date, at the same place and around the same time, in furtherance of their common intention, committed theft of three golden rings, one silver ring, one Neelam stone, one gold chain, cash amounting to Rs. 10,000/-, and one bag containing the key of a Godrej almirah, ATM card and other articles and thereby committed an offence punishable U/S **379/34 of IPC**, as alleged?*

DISCUSSION, DECISION AND REASON THEREOF:-

6. PW-1 is Sri Uddhab Nath who deposed in his evidence that on 20/03/2014, he was posted as attached officer at Azara PS. On that day, O/C Azara PS handed over to him the case diary of the instant case to complete the investigation of this case. After going through the case diary he came to know that initial I.O. Sub-Inspector Prabin Bora had already recorded statement of the informant and

other witnesses, visited place of occurrence, drew sketch map and seized one vehicle, mobile handset, driving license, two gold rings, silver rings and cash of Rs. 500/-, prepared seizure list. I.O. Sub-Inspector Prabin Bora also sent the injured for medical examination and arrested the accused persons and forwarded them to judicial custody. He tried to arrest the accused Muslim Ali but could not find him out. During investigation, informant submitted one affidavit showing **that they have compromised the dispute between them**. Thereafter he was transferred and subsequently S.I. Hemanta Chakrabroty after collecting the medical report of the victim, submitted the charge sheet against the accused. He exhibited the Sketch Map as P.Ext-1/PW-1 and identified the signature of I.O. Sub-Inspector Prabin Bora, which he knows for long association as P.Ext-1(1)/PW-1. He further exhibited the Seizure List as P.Ext-2/PW-1 and identified the signature of I.O. Sub-Inspector Prabin Bora, which he knows for long association as P.Ext-2(1)/PW-1. He further exhibited another Seizure List as P.Ext-3/PW-1 and the signature of I.O. Sub-Inspector Prabin Bora, which he knows for long association as P. Ext 3(1)/PW1. He further exhibited another Seizure List as P.Ext-4/PW-1 and the signature of I.O. Sub-Inspector Prabin Bora, which he knows for long association as P.Ext-4(1)/PW-1. He further exhibited another Seizure List as P.Ext-5/PW-1 and the signature of I.O. Sub-Inspector Prabin Bora, which he knows for long association as P.Ext-5(1)/PW-1. He further exhibited the affidavit as P.Ext-6/PW-1. He further exhibited the injury report of the victim as P.Ext-7/PW-1. He further exhibited the Charge Sheet as P.Ext-8/PW-1 and the signature of I.O. Sub-

Inspector Hemanta Chakraborty, which he knows for long association as P.Ext-8(1)/PW-1.

These are the prosecution evidence.

7. During the stage of arguments, learned defence counsel for the accused opened the arguments by stating that prosecution has hopelessly failed to prove that the accused persons were involved in the alleged offence and hence prayed to acquit the accused persons. **Per contra** Ld. Addl. P.P. submitted to pass judgment as per law.

8. Now let us see whether the prosecution has been able to bring home the guilt of the accused U/s 342/323/326/379/34, IPC. Let us revisit Section 342, Section 323, Section 326 and Section 379 of IPC.

Section 342 of IPC states – *“Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.”*

9. Section 323 of IPC states – *“Whoever except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both”.*

10. Section 326 of IPC states – *“Whoever except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or*

to receive into the blood, or by means of any animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine”.

11. Section 379 of IPC states – *“Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”*

12. Let us discuss the evidence of the prosecution witness. PW-1, Sri Uddhab Nath, testified that on 20/03/2014 he was posted as attached officer at Azara PS and O/C Azara PS handed over to him the case diary to complete investigation of the instant case. After going through the case diary, he came to know that initial I.O. Sub-Inspector Prabin Bora had recorded statements of the informant and witnesses, visited the place of occurrence, drew a sketch map, seized one vehicle, mobile handset, driving license, two gold rings, silver rings and cash of Rs. 500/- and prepared seizure lists, sent the injured for medical examination, arrested the accused persons and forwarded them to judicial custody. He tried to arrest accused Muslim Ali but could not trace him. During investigation, the informant submitted an affidavit stating that the dispute had been compromised. Thereafter he was transferred and subsequently S.I. Hemanta Chakrabroty collected the medical report of the victim and submitted the charge sheet against the accused.

13. From the above discussion, it is apparent that the prosecution has failed to establish the charges against the accused persons under Sections 342/323/326/379 of the IPC beyond reasonable doubt. PW-1, Sri Uddhab Nath, is admittedly not an eyewitness to the alleged occurrence and his evidence is confined to the steps taken during

investigation by the previous Investigating Officer. He has merely stated that the informant and other witnesses had been examined, the place of occurrence was visited, certain articles were seized, and the injured was sent for medical examination. However, neither the informant nor any other eyewitness to the alleged assault, wrongful confinement or theft has been examined by the prosecution to substantiate the allegations. The injury report, exhibited as P. Ext.-7/PW-1, by itself does not establish the manner in which the injuries were sustained or connect the accused persons with the alleged assault, particularly when the medical evidence has not been proved through the concerned medical officer. Likewise, the seizure lists and the articles allegedly seized do not, in the absence of substantive evidence connecting the same with the accused persons and the alleged occurrence, establish the ingredients of the offence of theft under Section 379 IPC. The evidence further reveals that during investigation the informant submitted an affidavit stating that the dispute between the parties had been compromised. Though such compromise by itself cannot exonerate the accused persons from criminal liability for non-compoundable offences, it assumes significance in the present case as there is no cogent evidence on record to prove the allegations. The prosecution has also failed to bring on record cogent and reliable evidence establishing that the accused persons wrongfully confined the complainant, voluntarily caused hurt or grievous hurt to her, or dishonestly took her movable property out of her possession. Thus, the prosecution evidence falls short of the standard of proof required in a criminal trial and does not inspire sufficient confidence to sustain a conviction.

14. In conclusion, the prosecution has failed to establish by cogent, reliable and legally admissible evidence that the accused persons had intentionally wrongfully confined the informant, or had voluntarily caused hurt or grievous hurt to her, or had dishonestly taken her movable properties out of her possession without her consent, so as to constitute the offences punishable under Sections 342, 323, 326 and 379 IPC. In view of the above, it has to be concluded that the prosecution has failed to prove its case against the accused persons beyond reasonable doubt.

15. ORDER

Considering the discussions made above and after all deliberations, I deem it fit to record an order of acquittal of the accused persons. Accordingly, accused **Musstt. Salma Islam, Musstt. Rousnara Akhtar Islam** and **Md. Mobinoor Islam** are **acquitted** of all the charges under Sections 342/323/326/379/34 of IPC and set at liberty forthwith. Their bail bonds will remain in force for six months from today.

16. Seized articles, if any, are to be disposed of as per law.

17. Judgment is pronounced in the open Court. The case is **disposed** of on contest.

Given under my hand and seal of this Court on this **14th day of August, 2026.**

*As dictated,
Typed by: Sri Digbijoy Talukdar,
(Stenographer, Gr-II)*

**(Shri Baloram Kshetri)
Chief Judicial Magistrate,
Kamrup (M), Guwahati**

APPENDIX – 14

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	Sri Uddhab Nath	POLICE WITNESS

B. Defence Witnesses, if any

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1	NIL	

C. Court Witnesses, if any

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW 1	NIL	

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:

Sl. No.	Exhibit Number	Description
1.	P.Ext-1/PW-1	Sketch Map
2.	P.Ext-2/PW-1	Seizure List
3.	P.Ext-3/PW-1	Seizure List
4.	P.Ext-4/PW-1	Seizure List
5.	P.Ext-5/PW-1	Seizure List
6.	P.Ext-6/PW-1	Affidavit
7.	P.Ext-7/PW-1	Injury Report
8.	P.Ext-8/PW-1	Charge Sheet

B. Defence:

Sl. No.	Exhibit Number	Description
1.	NIL	

C. Court Exhibits:

Sl. No.	Exhibit Number	Description
1.	NIL	

D. Material Objects:

Sl. No.	Exhibit Number	Description
1.	NIL	

(Shri Baloram Kshetri)
Chief Judicial Magistrate,
Kamrup Metro, Guwahati

Dictated on : 14/08/2026

Transcribed on : 14/08/2026

Checked on : 14/08/2026

Signed on : 14/08/2026

(Shri Baloram Kshetri)
Chief Judicial Magistrate,
Kamrup Metro, Guwahati

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