

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,  
UDALGURI, BTAD: : ASSAM.**

**G.R. CASE NO. 760 of 2019  
(PRC NO. 1078/2019)**

**Present: Sri Mridul Kumar Saikia.  
Chief Judicial Magistrate,  
Udalguri, BTAD, Assam.**

**STATE**

**-VS-**

**MD. AJIJUL ALI**

**-----Accused.**

**For the Prosecution : Mr. M. Khaklary, Learned Addl. P.P.**

**For the Defence : Mr. Manoj Deka Leaned Advocate.**

**Date of Prosecution Evidence : 12-03-2020.**

**Date of Argument & Judgment : 12-03-2020.**

**U/S- 341/352 I.P.C.**

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

1. The matrix of the prosecution case, as unveiled from the complaint petition lodged by the complainant Md. Atab Ali on 09-08-2019 before the court of Chief Judicial Magistrate, Udalguri, BTAD, Assam is that the accused Musst. Nekijan Bibi and Ajijul Ali are the legally married wife and the son of the complainant respectively who are volatile and termagant nature. Since three years back he had been tolerating both physical and mental torture committed by them upon him. Though he took initiative to settle the matter amicably for several times through their village people and even by lodging F.I.R. before the police station, but all his enthusiasm went in vain and they did not changed their attitude. They made conspiracy to illegally acquire and possess his all movable and immovable properties and to achieve their goal even dared to use

physical force and means of threatening. On 15-06-2019 at about 7 P.M. the accused Musst. Nekijan Bibi assaulted him by a stick and the co-accused Ajijul Ali tried to strangulate him and got him out from his house. On 11-07-2019 at about 10 P.M. while he was in deep sleep, both the accused persons attempted to kill him by stabbing by a knife wherein he somehow awoke and made hue and cry to which the nearby people came and rescued him. Hence, informing about the occurrences, the complainant filed this complaint petition before this court with a prayer for taking necessary action against the accused persons.

2. On receipt of the complaint petition treating as ejahar to the effect aforesaid, forwarded the same to the Officer-in-Charge of Panery Police Station for registering a case under proper sections of law and accordingly, the Officer-Charge of Panery PS registered Panery PS case no. 70 of 2019 U/S 120(B)/307/323/352/384/511 I.P.C. On completion of the investigation the I/O submitted the charge sheet against the accused Md. Ajijul Ali alleging commission of the offences U/S 341/352 I.P.C. with a prayer for discharging the co-accused Musst. Nekjan Bibi from the case as no material was gathered against her.
3. On the basis of the charge sheet, cognizance of offence was taken under Section **190 (1)(b)** of the Cr. PC. The processes were issued for causing appearance of the accused before the Court. Accordingly, the accused appeared before the Court to answer the charges leveled against him. All necessary copies of relevant papers and documents were furnished to the accused in compliance with the provisions of Section 207 CrPC. Finding a prima-facie case for commission of offence, the particulars of offences U/S 341/352 IPC were explained to the accused to which the accused pleaded not guilty and claimed to stand trial.
4. In order to bring home the charges, the prosecution examined only the complainant in the form of:

PW 1 – Md. Atab Ali.

The prosecution has exhibited the following document in the form of:

Ext. 1 – Ejahar.

5. After recording the prosecution witness the accused persons were examined U/S 313 Cr.P.C. All the accused denied the circumstances and pleaded their innocence. Further the accused person declined to adduce any evidence in defence.

6. I have heard the argument put forward by the learned Additional P.P. and the learned advocate appearing for the accused person. I have also carefully gone through the entire evidence available with the case record.
7. **POINTS FOR DETERMINATION OF THE CASE:** To ascertain the guilt of the accused person on the charges leveled against him, the following points are sorted out for the decision of the case:
- (I) Whether on 15-06-2019 at about 7 P.M. and on 15-06-2019 at about 7 P.M. and on 11-07-2019 at about 10 P.M. at village No.2 Garuajhar under Panery Police Station the accused wrongfully intercepted the complainant Md. Atab Ali?
- (II) Whether on the same day, time and place the accused assaulted or used criminal force to the complainant otherwise than on great provocation?

**DISCUSSION, DECISION AND REASONS THEREOF:**

8. To decide the above points, let me scrutinize the evidence on record. The vital witness PW 1 Md. Atab Ali, who is the complainant of this case, has stated in his deposition that accused Ajijul is his son. About seven months back, he had an altercation with his son due to some misunderstanding and on emotion he filed this instant case against his son Md. Ajijul Ali. Presently, they resolved their differences and are living peacefully. He expressed his unwillingness to proceed further with the case. He has proved his ejahar Ext. 1 by identifying his signatures Ext. 1(1)(2)(3)&(4) thereon.
9. In cross-examination PW 1 stated that he has no objection, if the accused gets acquitted in the case.
10. From the testimonies of the vital witness, who is the complainant of this case, it is established that the complainant lodged the complaint petition against the accused due to some misunderstanding only and further stated that they are at present living peacefully. In the cross portion, the complainant expressed that he has no objection if the accused gets acquitted from the case. Moreover, it is also found that the accused is the own son of the complainant and the case was lodged against him only on misunderstanding and they are now living peacefully.

- 11.** Thus, from the above appraisal, appreciation of evidence on record, and the application of law, I find that the prosecution failed to establish the offence U/S 341/352 I.P.C. against the accused beyond all reasonable doubt. In the result, the accused is not found guilty U/S 341/352 I.P.C. Hence, the accused Md. Ajijul Ali is acquitted from the charges U/S 341/352 I.P.C. and set him all at liberty forthwith.
- 12.** Bail bond shall remain in force for next 6 months as per provisions of Section 437 A CrPC.

Given under my hand and seal of this Court on this 12<sup>th</sup> day of March, 2020 at Udalguri, BTAD, Assam.

Dictated and corrected by me:

**(Mridul Kumar Saikia)**  
Chief Judicial Magistrate  
Udalguri, BTAD, Assam.

**(Mridul Kumar Saikia)**  
Chief Judicial Magistrate.  
Udalguri, BTAD, Assam.

**APPENDIX**

- A. Prosecution witnesses : PW 1 Sri Atab Ali (Complainant)
- B. Defence witness : Nil.
- C. Documents exhibited : Ext. 1 – Ejahar.

**(Mridul Kumar Saikia)**  
Chief Judicial Magistrate  
Udalguri, BTAD, Assam.

Transcribed and typed by me:

(Tulashi Dev Sarma/Stenographer).