

DISTRICT : GOLAGHAT.

IN THE COURT OF THE SESSIONS JUDGE AT GOLAGHAT.

Ref. :- **Sessions Case No. 207/2012.**

G.R. Case No. 1328/2012.

U/S. 448/324/307506/34 of IPC.

The State of Assam Prosecution.

Vs.

1.Sri Moina Gogoi @ Bipul Gogoi,

2.Sri Loknath Gogoi,

3.SriPhonidhar Gogoi,

4.Sri Babu Gogoi.

..... Accused.

Date of charge 08.01.2013.

Dates of evidence 01.02.2013, 04.02.2013,
14.03.2013, 07.06.2013,
01.08.2013.

Date of argument 01.11.2013, 13.11.2013.

Date of judgment 27.11.2013.

APPEARANCES :-

For the prosecution Mr. N.P. Acharjee,
Public Prosecutor,
Golaghat.

AND

For the accused persons Mr. C. Gogoi,
Advocate, Golaghat.

P R E S E N T :

SHRI T. LOHAR,
SESSIONS JUDGE,
GOLAGHAT.

JUDGMENT AND ORDER :

1. The prosecution case, in brief, is that on 5.9.2012, at night of about 8'15 P.M., accused Moina Gogoi @ Bipul Gogoi, Loknath Gogoi, Phonidhar Gogoi and Babu Gogoi of Hatigarh Matikhola village, armed with sharp weapon, entered into the house hold compound of Md. Saidur Rahman and uttered that they would kill all the inmates of the said house and accused Moina Gogoi entered into the said house and gave blow to Mustt. Arju Rahman and Miss Silpi Rahman @ Sajmin Rahman with a chopper knife and they also searched Md. Saidur Rahman to finish him. At that time, Saidur Rahman, garden Manager Arun Sarmah and Assistant garden Manager Pronob Chutia were enjoying T.V. programme in the T./V. Room of the said house. They raised hue and cry during the occurrence. Then the accused persons fled away from there.
2. The O/C of Ghiladhari police station on receipt of the written ejahar from the informant Saidur Rahman on 6.9.2012, registered a case vide Ghilahari P.S. Case No. 53/2012, u/s 448/326/307/506/34 of IPC and the O/C Sri Liakat Ali Bora of Ghiladhari police station investigated into the case. After completion of investigation, he submitted the charge sheet u/s 448/324/307/506/34 of IPC against the above named four accused persons to face the trial.
3. As the case is exclusively triable by the Court of Sessions, the learned Judicial Magistrate, First Class, Golaghat committed the case to the Court of Sessions. Accordingly, the case came up before this Court for trial.
4. On appearance of the accused persons and after hearing from both the sides and on perusal of the case record, the prima facie materials for the offence u/s 448/324/307/506/34 of IPC were found against the accused persons to proceed with the case. Accordingly, all the above named four accused persons have been charged u/s 448/324/307/506/34 of IPC and contents of the charges were read over and explained to them to which they pleaded not guilty and claimed to be tried.
5. The prosecution adduced the evidence of 10 witnesses to prove the case whereas, the accused persons adduced none in their defence. The accused persons have been examined u/s 313 of Cr.P.C. They declined to adduce defence evidence.
6. Heard argument of both the sides.
7. The only points for determination in this case are :-

- (i) “ Whether the accused persons on 5.9.2012, at night of about 8'15 P.M., in furtherance of common intention, entered into the house of Md. Saidur Rahman with sharp weapon with intention to commit the offence ?
- (ii) Whether the accused persons on the same day, time and place, in furtherance of common intention, voluntarily caused hurt to Smti. Arju Rahman and Miss Sajmin Rahman by giving dao blow ?
- (iii) Whether the accused persons in furtherance of common intention and under such circumstances, attempted to cause the death of Arju Rahman and Miss Sajmin Rahman ?
- (iv) Whether the accused persons in furtherance of common intention, committed criminal intimidation by threatening with intention to cause alarm to Smti. Arju Rahman and Miss Sajmin Rahman ?”

DISCUSSIONS, DECISION AND REASONS

THEREOF :

8. The aforesaid points are interrelated to each other, therefore, all the points are taken up together for discussions.
9. Let me discuss the evidence on record to see as to whether the prosecution is able to prove the above points.
10. P.W.1 Sri Arun Sarmah is the Manager of Hatigarh Matikhola Tea Estate, whereas, P.W.9 Sri Pronob Chutia is the Assistant garden Manager of the said Tea Estate. P.W.4 Md. Saidur Rahman is the Componder of the said Tea Estate. According to the evidence of P.W.1 Arun Sarmah, about ¾ months ago, one day, at 6/7 P.M., while he accompanied with P.W.9 Pronob Chutia were in the house of P.W.4 Saiddur Rahman and while all of them were enjoying T.V. programme in the T.V. room of the house of P.W.4 Saidur Rahman, all the above named accused persons were uttering abusive words from the court-

yard of the said house. Then P.W.1 Arun Sarmah came out from the house. Then the accused persons asked P.W.4 Saidur Rahman and his son to come out from the house. Then P.W.1 closed the door of the said house. He (P.W.1) requested the accused persons not to make quarrel. Then the accused Moina Gogoi @ Bipul entered into the house of P.W.4 prior to closing the door of the said house. At that time, the situation was very tense. The accused Moina Gogoi came out from the house. Thereafter, the accused persons left the place. Then P.W.1 opened the door of the said house and Mustt. Arju Rahman (P.W.6) the wife of P.W.4 Saidur Rahman came out smeared with blood. She sustained cut injury on her shoulder near the neck. P.W.7 Sajmin Rahman, the daughter of PW.4 also sustained bleeding injury on her back. The accused Moina Gogoi @ Bipul inflicted cut injury to P.W.6 and P.W.7 by a chopper knife. P.W.1 Arun Sarmah was put suggestion that the accused Moina Gogoi did not enter into the house of P.W.4 Saidur Rahman to which he denied. Further, he (P.W.1) denied the suggestion that there was no weapon of offence in the hands of accused Moina Gogoi. He denied the suggestion that he had not stated before the police that after opening the door, the wife of Saidur Rahman (P.W.4) was brought outside of the house smeared with blood. It is true that P.W.1 did not see the incident that took place inside the house of P.W.4 Saidur Rahman.

11. Let me discuss the evidence of P.W.6 Smti. Arju Rahman, who is the injured person in this case. At the time of incident, P.W.6 Arju Rahman was in the kitchen room. Her son Ashiquor Rahman was in his own shop. The garden Manager (P.W.1) and Assistant garden Manager (P.W.9), her daughter (P.W.7) and her husband (P.W.4) were also present in the house. At that time, accused Loknath Gogoi called her son Ashiquor Rahman from inside the gate of her house hold compound. Then she (P.W.6) came out from the kitchen room and raised the curtain of the door and saw all the accused persons were present in the court-yard of her house. The accused Moina Gogoi entered into the house and gave dao blow on her neck. When she raised her hand, the blow fell on her shoulder. Thereafter, the accused Moina Gogoi inflicted cut injury on the back of her daughter Sajmin Rahman (P.W.7) with the same chopper knife. The garden Manager Arun Sarmah got the accused Moina Gogoi out of the house. Then her husband Saidur Rahman (P.W.4) came out from the bed room and caught hold her.

In cross examination, P.W.6 has denied the suggestion put by the learned defence counsel that she had not stated before the police that accused Loknath had uttered that he would give dao blow from one to all. Except this statement, no other contradiction has been pointed out by the defence. I find no ground to disbelieve the evidence of P.W.6 Arju Rahman.

12. P.W.7 Miss Sajmin Rahman, who is the daughter of the informant P.W. 4 was studying in the additional room situated in the varandah of the house at the time of incident. The door of the said room was kept opened. She saw the accused persons coming to her house and called her elder brother Ashiquor Rahman. At that time, the garden Manager (P.W.1) and Assistant garden Manager (P.W.9) were in their house. Both P.W.1 and P.W.9 came out from the house and when P.W.7 Sajmin Rahman came to the drawing room, she saw the accused Moina Gogoi giving blow on the neck of her mother (P.W.6) with a chopper knife and when her mother bent other side, the said blow fell on her shoulder. Thereafter, accused Moina Gogoi gave two blows on the back of P.W.7 Sajmin Rahman. But only one blow landed on her back.

P.W.7 Sajmin Rahman denied the suggestion that she had not stated before the Investigating Officer that the accused Moina Gogoi gave dao blow to the neck of her mother and the said blow fell on the shoulder of her mother when her mother bent other side. Except this contradiction, the learned defence counsel failed to point out any other contradiction. Therefore, we find no reason to disbelieve the evidence of P.W.7.

13. P.W.2 Dr. Manjit Singh on 5.9.2012, at around 9'10 P.M., examined the injured Smti. Arju Rahman(P.W.6) at Kushal Konwar Civil Hospital, Golaghat in connection with Ghiladhari P.S. Case No. 53/12 and found one cut injury over the anterior aspect of left shoulder, size – 7Cm. X 2 Cm. X 2Cm. The nature of the injury was simple caused by sharp weapon and duration of the injury was recent. Ext-1 is the injury report in respect of the injured Arju Rahman , upon which Ext-1(1) is his signature.

On the same day, at 9'15 P.M., he examined Sajmin Rahman, (P.W.7), daughter of Saidur Rahman in connection with the same police station case number and found cut injury over the back of the chest wall(right side), size – 3 Cm. X 2Cm. The nature of injury was simple, caused by sharp weapon and duration of injury was recent. Ext-2 is the injury report of the injured Sajmin Rahman, upon which Ext-2(1) is his signature.

In cross examination, P.W.2 has stated that the Investigating Officer did not show him the weapon of offence. Further, he did not find foreign materials in the injury.

14. From the aforesaid cross examination, we find that the defence did not deny the injuries sustained by P.W.6 Arju Rahman and P.W.7 Sajmin Rahman. We find that the medical evidence has supported the evidence of both the injured persons, i.e. P.W.6 and P.W.7.

15. P.W. 3 Md. Ashiquor Rahman is the son of the informant Md. Saidur Rahman (P.W.4). According to his evidence, the injured P.W.6 Arju Rahman is his mother, whereas, the injured P.W.7 Sajmin Rahman is his younger sister. The occurrence took place on 5.9.2012 at 8'15 P.M. At that time, the garden Manager Arun Sarmah (P.W.1) and Assistant garden Manager Pronob Chutia (P.W.9) were present in his house. His mother (P.W.6), sister (P.W.7) and his father (P.W.4) were also present in his house at the time of incident. All the accused persons came and accused Loknath called him to come out from the house. Then the P.W.3 went outside. At that time, accused Moina Gogoi had a chopper knife, accused Loknath Gogoi had an axe and remaining accused persons had chopper knives in their hands. Then accused Moina Gogoi came and gave blow to his mother on her neck with the chopper knife. But the said blow fell on the shoulder of his mother. On hearing hue and cry, his sister Sajmin (P.W.7) came out. The accused gave blow on her back by the same chopper knife. P.W.3 did not see the incident. But he saw the injury sustained by his mother and sister. The P.W.3 is not an eye witness.

In cross examination, P.W.3 has stated that he could not say as to how his mother and sister sustained injury. He denied the suggestion that he did not state before the police that he saw the chopper knife and axe in the hands of the accused persons. The police confirmed the said version.

16. P.W.4 Md. Saidur Rahman is the informant and husband of the injured Arju Rahman (P.W.6) and father of the injured Sajmin Rahman (P.W.7). According to his evidence, the occurrence took place on 5.9.2012 at night of about 8'15 P.M. At that time, he was in his house after reading 'Namaj'. The accused persons entered into his house. Accused Moina Gogoi and Babu Gogoi had chopper knives in their hands, accused Loknath Gogoi had an axe in his hand and accused Phonidhar Gogoi had a lathi in his hand. But only accused Moina Gogoi had entered into the room of his house, whereas, other accused persons were remained in the court-yard. Accused Moina Gogoi gave blow on the

neck of his wife Arju Rahman with a chopper knife. But his wife bent other side and the said blow fell on her left shoulder. At that time, he (P.W.4) came to the drawing room from his bed room and saw the said injury of his wife and he caught hold his wife. At that time, his daughter Sajmin Rahman came out from her study room and accused gave blow on her back with the said chopper knife. At that time, Arun Sarmah (P.W.1), the Manager of the garden and Pronob Chutia (P.W.9), the Assistant Manager of the garden were sitting in the varandah. The Manager Arun Sarmah (P.W.1) drove out the accused Moina Gogoi from the house. The Assistant Manager Pronob Chutia (P.W.9) and Manager Arun Sarmah (P.W.1) prevented the other accused persons from entering into the house. His son Ashiquor Rahman (P.W.3) was in the house. After the incident, P.W.1 Arun Sarmah brought the injured persons to Golaghat Civil Hospital by his car. Thereafter, he (P.W.4) lodged the ejahar. His injured wife Arju Rahman (P.W.6) undertook medical treatment as indoor patient for 13 days, whereas, his injured daughter Sajmin Rahman (P.W.7) undertook medical treatment for 4 days. On the next day of the incident, i.e. on 6.9.2012, he lodged the ejahar. Ext-3 is the ejahar, upon which Ext-3(1) is his signature. During investigation, police seized the blood stained clothes under the seizure list Ext-4, upon which Ext-4(1) is his signature./ M. Ext-1 is the Maxi of his wife, whereas, M. Ext-2 is the wearing cloth of his daughter. Police seized the chopper knife. M. Ext-3 is the chopper knife.

In cross examination, P.W.4 has stated that the accused Moina Gogoi owed money to him. He denied the suggestion put by the defence that both he and his son wanted to attack the accused persons with a dao. Further, he denied the suggestion that his son and daughter wanted to snatch the dao from him.

17. P.W.5 Imran Hussain is the VDP person. He did not see the incident. At the time of incident, he was in his house. He was informed about the incident over telephone and then he informed the matter to the O/C of Ghiladhari police station over telephone.

18. P.W.7 Sajmin Rahman has deposed in evidence that on 5.9.2012, at around 8 P.M., while she was in her reading room, accused persons came to her court-yard. All the accused persons called Ashiquor Rahman. At that time, the garden Manager Arun Sarmah and the Assistant garden Manager Pronob Chutia, were sitting in their house, and they came out from the house and saw accused Moina Gogoi giving dao blow on her mother and the said dao blow

fell upon the left shoulder of her mother. Further, accused Moina Gogoi gave dao blow on her back side. They were taken to the hospital by the garden Manager in his car. Police seized the frock which was worn by her at that time. M. Ext-2 is the said frock.

19. P.W.8 Prodip Dutta did not see the incident. On the next day of the occurrence, the informant Saidur Rahman (P.W.4) called him to his house. At that time, police also present there. Police seized the chopper knife under Ext-5 the seizure list, upon which Ext-5(1) is his signature. M. Ext-3 is the chopper knife. He could not say from where the police seized the chopper knife.

20. P.W.9 Pronob Chutia is the Assistant garden Manager of Hatigarh Matikhola Tea Estate. At the time of occurrence, he was in the drawing room of the house of P.W.4 Saidur Rahman along with garden Manager Sri Arun Sarmah (P.W.1). At that time, some body called the name of Ashiquor from outside. Then P.W.6 Arju Rahman came out from the house and thereafter, Asiquor came out along with Sajmin Rahman from the house. A commotion broke out outside of the house. Then he came out from the house and saw all the accused persons there. He (P.W.9) and P.W.6 Arju Rahman came out from the house and then the Manager Arun Sarmah (P.W.1) entered into the room and closed the door from outside. P.W.9 did not see the entering of any person into the house. But Arju Rahman and her other family members shouting "Katile", "Katile" from inside the house. He heard the shouting at a distance of 10/15 Nalls. Thereafter, the accused persons left the place. The garden Manager Arun Sarmah opened the door. Thereafter, he (P.W.9) entered into the house and saw cut injury near the neck of Arju Rahman and on the back side of Sajmin Rahman. The injured did not state to him who had inflicted cut injury to them. P.W.1 Arun Sarmah took both the injured persons to Golaghat Civil Hospital for treatment. Later on, on the same day, P.W.9 came to know that accused Moina Gogoi had inflicted cut injury to P.W.6 and P.W.7.

P.W.9 has been thoroughly cross examined by the defence, but nothing has been came out from him which belied his evidence.

21. P.W.10 S.I. of police Liakat Ali Bora has deposed in evidence that on 6.9.2012, while he was working as S.I. of police at Ghiladhari police station, on that day, at around 8'30 A.M., he received the ejahar from the informant Saidur Rahman (P.W.4) and accordingly, he registered the case vide Ghiladhari P.S. Case No. 53/12, u/s 448/326/307/506/34 of IPC and he himself investigated into the case. Ext-3 is the ejahar, upon which Ext-3(2) is his signature. Ext-6 is

the printed FIR form filled up by him, upon which Ext-6(1) and Ext-6(2) are his signatures. Ext-6(3) is the signature of the informant Saidur Rahman. The occurrence took place in the garden quarter of the informant. During investigation, he drew up the rough sketch map of the place of occurrence. Ext-7 is the said sketch map, upon which Ext-7(1) is his signature. He also examined the available witnesses. In course of investigation, he seized the blood stained 'Maxi' of P.W.6 Arju Rahman and wearing cloth of her daughter, P.W.7. Ext-4 is the seizure list, upon which Ext-4(3) is his signature. M. Ext-1 is the said 'Maxi' and M. Ext-2 is the frock. He seized the chopper knife from the house of accused Loknath Gogoi on 7.9.2012 vide Ext-5 the seizure list, upon which Ext-5(2) is his signature. Ext-5(3) is the signature of accused Loknath Gogoi. M. Ext-3 is the said chopper knife. The occurrence took place on 5.9.2012. On the said day, the injured persons undertook medical treatment at Golaghat Civil Hospital. Thereafter, he received the ejahar. During investigation, he collected the injury report of the injured persons from Kushal Konwar Civil Hospital, Golaghat on requisition. On 8.9.2012, he arrested all the accused persons. After completion of investigation, he submitted the charge sheet u/s 448/324/307/506/34 of IPC against the accused persons on 27.9.2012. Ext-8 is the charge sheet, upon which Ext-8(1) and Ext-8(2) are his signatures.

In cross examination, P.W.10 has stated that after receiving the ejahar, he proceeded to the place of incident at around 9 A.M. He prepared the sketch map of the place of incident. Ext-7 is the said sketch map of the place of incident. The Investigating Officer (P.W.10) has identified the place of incident is the court-yard of the house of the informant and the said place is marked as 'X' in the sketch map. The prosecution case is that all the accused persons entered into the house hold compound of the informant and stayed in the place marked as 'X' in the sketch map (Ext-7). One of the accused person, namely – Moina Gogoi entered into the house of the informant and gave blow on the neck of Arju Rahman (P.W.6) the wife of the informant. But fortunately, the said blow fell on the left shoulder of P.W.6. The actual occurrence took place inside the house of the informant. P.W.10 has admitted that the date below his signature that appears in Ext-5 the seizure list is over writing. He kept blank the serial numbers 2, 3 and 4 in the column of witness list in Ext-5 the seizure list. He admitted that he did not send Ext-3 the chopper knife to the Forensic Science Laboratory, Guwahati for examination of the blood. P.W.10 has confirmed that P.W.1 Arun Sarmah has not stated before him that Saidur Rahman brought his wife Arju Rahman outside

from the house smeared with blood. Further, P.W.10 confirmed that P.W.3 Ashiquor Rahman has not stated before him that he had seen the chopper knife and axe in the hands of the accused persons. Further, the I.O. confirmed that P.W.3 Ashiquor Rahman did not state before him that accused Moina Gogoi chased him to the house. P.W.6 Arju Rahman has not stated before him that accused Loknath Gogoi had uttered that he would inflict injury from one to all. Further, P.W.10 has admitted that P.W.7 Sajmin Rahman has not stated before him that accused gave blow on the neck of her mother and the said blow fell on the left shoulder of her mother.

22. The learned defence counsel during cross examination of P.W.1, P.W.3, P.W.6 and P.W.7 pointed out the aforesaid omissions. But all these omissions are not amount to contradictions. The statement u/s 161 of Cr.P.C. being brief, failure to mention a particular fact due to not being asked, is not contradiction. Omission of vital point ought to be held as contradiction. One of the accused, namely – Moina Gogoi @ Bipul entered into the house of the informant and gave blow on the neck of Smti. Arju Rahman (P.W.6) the wife of the informant by a chopper knife. But fortunately, the said blow fell on her left shoulder. The accused selected the neck of P.W.6 for inflicting cut injury. This fact has not been contradicted during cross examination of P.W.6 and P.W.7. Thereafter, the said accused gave blow on the back of Sajmin Rahman (P.W.7) the daughter of P.W.6 by the same chopper knife. This fact is remained as it is. The accused Moina Gogoi has knowledge that if the blow is given on the neck of said unfortunate and undefended lady with a chopper knife, she might have died.

23. It is inferred from the manner of committing the offence by the accused Moina Gogoi that he gave blow to Smti. Arju Rahman on her neck with a chopper knife with intention to kill her. Under such circumstances that if death ensued, he would be guilty of murder. It is not necessary that injury capable of causing death should have been inflicted. What is material to attract the provisions of Section 307 of IPC is the guilty intention or knowledge irrespective of its result. The offence u/s 307 of IPC is clearly proved by the prosecution against the accused Moina Gogoi @ Bipul.

24. The learned defence counsel on behalf of the accused persons has submitted that Ext-7, the sketch map, pointed out the place of incident is the court-yard marked by 'X'. But during the evidence, it is found that the occurrence took place inside the house of the informant. Therefore, the learned defence counsel on behalf of the accused persons has submitted that the place of incident

as stated by the Investigating Officer is found to be not proved. But from the evidence on record, it is found that all the accused persons gathered at the court-yard of the informant with arms and weapons and one of the accused persons entered into the house of the informant and inflicted injuries to P.W. 6 and P.W. 7. The omission to mention the second place of incident, i.e. inside of the house by the Investigating Officer (P.W.10) in the sketch map (Ext-7) does not belie the whole prosecution case. Therefore, the submissions of the learned defence counsel that the Investigating Officer has failed to identify the exact place of incident in Ext-7, the sketch map of the place of occurrence from where accused Moina Gogoi inflicted cut injury to P.W.6 and P.W.7. The learned defence counsel has submitted that the Investigating Officer did not show inside the house of P.W.4 as the second place of incident in the sketch map (Ext-7). Therefore, the sketch map should not be used as evidence. The Investigating Officer showed the court-yard of P.W.4 in the sketch map (Ext-7) marked by 'X' where the accused persons gathered. One of the accused, namely – Moina Gogoi entered into the house of P.W.4 with a chopper knife with intention to kill the family members of P.W.4 and inflicted injury on the neck of the wife (P.W.6) and daughter (P.W.7) of P.W.4 Saidur Rahman by a chopper knife. But fortunately, the said blow did not fall on the neck of P.W.6. All the eye witnesses saw the accused Moina Gogoi entering into the house of P.W.4 with a chopper knife in his hand. Not mentioning inside of the house of P.W.4 in the sketch map of place of occurrence (Ext-7) does not affect the veracity of the prosecution case in any way. All the witnesses saw the mark of injury sustained by P.W.6 and P.W.7 while they were in the house. The learned defence counsel on behalf of the accused persons has submitted that there is no cut mark on the wearing frock and 'Maxi' of P.W.7 and P.W.6 respectively. But the defence does not put any question in respect of the said fact during cross examination of P.W.6 and P.W.7. Learned defence counsel has further submitted that P.W.6 and P.W.7 stated during trial that the accused Moina Gogoi aimed his weapon of offence on the neck of P.W.6. But P.W.10, the Investigating Officer has stated during cross examination that P.W.7 Sajmin Rahman did not state that accused Moina Gogoi aimed his weapon of offence on the neck of P.W.6 Arju Rahman. But the defence could not point out any contradiction in connection with this fact in respect of the evidence deposited by P.W.6 with reference to her statement as recorded u/s 161 of Cr.P.C. by the police. The learned defence counsel has further submitted that Forman Ali and Sisinga Gogoi came with the accused persons as deposed by P.W.4. But the

prosecution did not examine the said two persons. Except P.W.4, other witnesses did not state that Forman Ali and Sisinga Gogoi came with the accused persons. Therefore, they are not vital witnesses in this case and non-examination of them does not affect the prosecution case in any way. The learned defence counsel has further submitted that the chopper knife which was seized on being produced by the accused Loknath Gogoi, has not been sent to the Forensic Science Laboratory for chemical examination. The learned defence counsel further submitted that the 'Maxi' and frock which were seized by the Investigating Officer, had not been sent to the Forensic Science Laboratory for determining the blood stain. Non-sending of the aforesaid materials to the Forensic Science Laboratory for examination, does not belie the prosecution case as there are sufficient evidence on record to point out the accused Moina Gogoi for commission of the offence.

25. From the aforesaid discussions, I find that the prosecution has able to prove the case against accused Moina Gogoi @ Bipul u/s 307 of IPC for attempting to commit the murder of P.W.6 Smti. Arju Rahman ; u/s 324 of IPC for voluntarily causing hurt to P.W.7 Miss Sajmin Rahman with a chopper knife ; u/s 448 of IPC for criminally trespassed into the house of P.W.4 with intention to commit the offence.

26. I find no sufficient materials to prove the charges against the remaining accused persons. From the aforesaid discussions, I find that they were remaining on the court-yard only of P.W.4 Saidur Rahman. They did not incite the accused Moina Gogoi to commit the aforesaid offences. Further, the prosecution has failed to prove the offence u/s 506 of IPC against all the accused persons. Accordingly, I acquit all of the accused persons of the charge u/s 506/34 of IPC and further, I acquit accused Loknath Gogoi, Phonidhar Gogoi and Babu Gogoi of the charges u/s 448/324/307/34 of IPC and set them at liberty. Their bail bonds stand discharged.

27. I, accordingly, arrived at a clear conclusion that prosecution has been able to prove its case against the accused Moina Gogoi @ Bipul u/s 307/324/448 of IPC beyond all reasonable doubt and accordingly, I convicted him under the said sections of offences.

28. Heard the accused Moina Gogoi @ Bipul on the point of sentence u/s 235(2) of Cr.P.C. Accused Moina Gogoi @ Bipul pleaded innocence and prays for exonerating him.

29. As the accused Moina Gogoi @ Bipul committed the offence against women, therefore, he shall be dealt with according to the provisions of

law under which he is convicted. Apart from it, I also considered his submissions on the point of sentence.

30. Considering all the facts, I sentenced the accused Sri Moina Gogoi @ Bipul to undergo rigorous imprisonment for 10 (ten) years and with fine of Rs.5,000/- (Rupees five thousand)only, u/s 307 of IPC, and in default of payment of fine, he shall undergo with rigorous imprisonment for one year. The accused Sri Moina Gogoi @ Bipl is sentenced to suffer rigorous imprisonment for 2 (two) years and with fine of Rs.1,000/- (Rupees one thousand)only, u/s 324 of IPC, and in default of payment of fine, he shall undergo with rigorous imprisonment for three months. Further, I sentenced the accused Sri Moina Gogoi @ Bipul to suffer rigorous imprisonment for 3 (three) months and with fine of Rs.500/- (Rupees five hundred)only, u/s 448 of IPC, and in default of payment of fine, he shall undergo with rigorous imprisonment of one month. The aforesaid sentences shall run concurrently.

31. The seized articles, if any, shall be destroyed in due course of time.

32. Furnish a copy of the judgment and order to the convict accused Sri Moina Gogoi @ Bipul with free of costs immediately.

33. The judgment and order is pronounced in my open Court today in presence of accused persons, as well as, learned counsels of both the sides.

Given under my hand and seal of the Court on this the 27th day of November, 2013.

(T. Lohar),
SESSIONS JUDGE,
GOLAGHAT.

APPENDIX :

WITNESSES FOR THE PROSECUTION :

1. P.W.1 - Sri Arun Sarmah,
2. P.W.2 - Dr. Manjit Singh, M.O.
3. P.W.3 - Md. Ashiquor Rahman,
4. P.W.4 - Md. Saidur Rahman.
5. P.W.5 - Md. Imran Hussain.
6. P.W.6 - Smti. Arju Rahman.

7. P.W.7 - Miss Sajmin Rahman.
8. P.W.8 - Sri Prodip Dutta,
9. P.W.9 - Sri Pronob Chutia.
10. P.W.10 - Sri Liakat Ali Bora, I.O.

EXHIBITS FOR THE PROSECUTION :

1. Ext-1 - Injury report.
2. Ext-2 - Injury report.
3. Ext-3 - Ejahar.
4. Ext-4 - Seizure list.
5. Ext-5 - Seizure list.
6. Ext-6 - Printed FIR form.
7. Ext-7 - Sketch map of the place of occurrence.
8. Ext-8 - Charge sheet.
9. M. Ext-1 - One 'Maxi'
10. M. Ext-2 - One frock.
11. M. Ext-3 - Chopper knife.

WITNESSES FOR THE DEFENCE :- NIL.

EXHIBITS FOR THE DEFENCE :- NIL.

Dictated & Corrected

by me.

(T. Lohar),

SESSIONS JUDGE,

GOLAGHAT.

Dictation taken & transcribed

by me:-S. Borpatra, Steno.