

**IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE  
AT NORTH LAKHIMPUR**

G.R CASE NO: 505 OF 2017  
PROSECUTOR: STATE OF ASSAM Vs  
ACCUSED: MD ABDUL HASIM.  
MD. ABDUL RAHIM.

DISTRICT: NORTH LAKHIMPUR  
IN THE COURT OF ADDITIONAL CHIEF JUDICIAL  
MAGISTRATE, AT NORTH LAKHIMPUR

GR CASE NO: 505 / 2017

U/S 447/323/294/34 OF I.P.C

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: MD. ABDUL HASIM AND ANR.

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P SRI R. DUTTA  
ADVOCATE FOR THE ACCUSED: SRI R. GOGOI

OFFENCE EXPLAINED ON : 27.04.2018  
EVIDENCE RECORDED ON : 08.03.2019 & 06.03.2020

ARGUMENT HEARD ON : 06.03.2020  
JUDGMENT DELIVERED ON : 06.03.2020

**JUDGMENT**

**PROSECUTION'S CASE IN BRIEF:**

1. Prosecution's case in brief as it reveals from the FIR is that on 22.02.2017 at about 7.30 AM, while accused Md. Abdul Hasim tried to tether his cow near the agricultural field of informant Md. Abdul Rashid at that time the informant raised objection due to which the said accused called the other three accused persons named in the FIR and then chased the informant to the courtyard of

his house and thereafter assaulted him physically by stabbing with bamboo stick and caused grievous injury to him. In the meantime, informant's daughter-in-law Mustt. Mamtaj Begum also came there and the accused persons rebuked said Mamtaj Begum and then assaulted her physically. Thereafter, the informant lodged an FIR about the occurrence before the OC of Laluk police station.

2. On receipt of the F.I.R, a case was registered being numbered as Laluk P.S Case No. 56/17 and after investigation I.O of the case submitted charge sheet against accused persons Md. Abdul Hasim @ Sanu and Md. Abdul Rahim for the offences punishable u/s 447/323/294/34 of IPC. Copies of relevant documents were furnished to the accused persons u/s 207 CrPC. Considering the relevant documents and hearing both the parties, particulars of offences punishable u/s 447/323/294/34 of IPC are read over and explained to both the accused persons to which they pleaded not guilty and stood to face the trial.

3. The prosecution in support of its case examined two witnesses, whereas the defence did not examined any witness. Finding no incriminating materials against the accused persons their cross-examination u/s 313 of CrPC was dispensed with. I have heard the learned counsel for both the parties.

4. Upon hearing and on perusal of record I have framed the following points for determination-

**5. POINTS FOR DETERMINATION:**

(i) Whether the accused persons on 22.02.2017 at about 7.30 AM at Besapatti village under Laluk police station, in furtherance of their common intention, unlawfully entered inside the courtyard of informant's house with the intention to cause hurt to the informant and his family members, and thereby committed an offence punishable u/s 447/34 of IPC?

(ii) Whether the accused persons on 22.02.2017 at about 7.30 AM at Besapatti village under Laluk police station, in furtherance of their common intention, voluntarily stabbed the informant Abdul Rashid and pushed informant's daughter-in-law Mustt. Mamtaj Begum with the intention to cause

hurt and thereby caused injury to them, and thereby committed an offence punishable u/s 323/34 of IPC?

(iii) Whether the accused persons on 22.02.2017 at about 7.30 AM at Besapatti village under Laluk police station, in furtherance of their common intention, rebuked the informant and his aforesaid daughter-in-law by using obscene words in or near any public place to the annoyance of informant and others, and thereby committed an offence punishable u/s 294/34 of IPC?

**DISCUSSION OF EVIDENCE, DECISION AND REASONS THEREOF:**

6. For the sake of convenience and as because point no. 1, 2, 3 and 4 are inter-connected, hence they are taken up herein together for discussion & decision as follows:

7. As regards the aforesaid points for determination, informant Md. Abdul Rashid as PW-1 in his evidence-in-chief has stated that one of the accused is his brother and the other accused is his nephew. About 2 years back on a day, he had an altercation with the accused persons in connection with eating of his crops by the cows belonging to accused persons. At that time, many villagers gathered there and a scuffle took place in that place, during which he fell down on the ground and sustained some injury. Thereafter, he lodged an FIR about the occurrence in police station. Exhibit.-1 is that FIR in which Exhibit-1(1) is his signature.

8. Informant's daughter-in-law Mustt. Mamtaj Begum as PW-2 in her evidence-in-chief has stated that one of the accused is her uncle and the other accused is her brother-in-law. About 3 years back on a day at about 6.00 AM in the morning, she and the informant had an altercation with the accused persons in connection with tethering of cows. Thereafter, the informant lodged an FIR about the occurrence.

9. The PW-1 and PW-2 in their evidence have further stated that, after lodging of that FIR, the aforesaid dispute between both the parties got settled amicably due to which they are not interested to proceed with this case any further. In their respective cross-examination, the PW-1 and PW-2

have stated that they do not have any objection if the accused persons are acquitted from this case.

10. At the time of argument, learned counsel for the defence submitted that the prosecution has failed to prove its case as alleged and hence the accused is liable to be acquitted from this case.

11. On perusal of the evidence deposed by PW-1 and PW-2 as narrated above, it is seen that at the time of occurrence, they allegedly had an altercation with the accused persons in connection with tethering of cows belonging to the accused persons. There is nothing in the evidence of PW-1 and PW-2 which can show that the accused persons have uttered obscene words in or near any public place, or unlawfully entered into any premises in possession of informant, or caused hurt to the informant and his daughter-in-law Mustt. Mamtaj Begum as alleged. The PW-1 and PW-2 have not stated anything about the alleged use of obscene words by the accused, or the alleged unlawful entry by the accused persons upon any premises of informant, or the alleged causing of hurt to the informant and his said daughter-in-law. There is no iota of evidence to show that the accused persons have committed the offences as alleged in the FIR. As such, it is clear that the witnesses examined by prosecution have not deposed any incriminating material against the accused persons and have failed to prove the case of prosecution as alleged in the FIR.

*DECISION: Point no.1, 2 & 3 are therefore decided in the negative and goes against the prosecution.*

12. In view of the discussions made above and the decisions reached in the foregoing points for determination, it is held that the witnesses examined by prosecution have failed to prove that accused persons Md. Abdul Hasim @ Sanu and Md. Abdul Rahim have committed the offences under section447/323/294/34 of IPC as alleged, and as such, the said accused persons are acquitted of the offences under section447/323/294/34 of IPC and they be set at liberty forthwith.

The bail bond of the accused persons shall remain in force for another six months from today.

This judgment is given under my hand, and seal of this court on this the 6<sup>th</sup> day of March, 2020.

The case is disposed of on contest.

(F. U Choudhury)  
Additional Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur

**APPENDIX**Exhibits:

Exhibit.1 – FIR

Prosecution Witnesses:

1. PW-1 – Md. Abdul Rashid
2. PW-2 – Mustt. Mamtaj Begum

Defence Witnesses:

NIL

(F. U Choudhury)  
Additional Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur