

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, LAKHIMPUR,
NORTH LAKHIMPUR, ASSAM**

Present: Sri Akhtabul Ala, AJS,
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur, Assam

G.R. 484/2015

U/s 336/294/323/506/34, IPC

State of Assam

-Vs-

1. Sri Akonman Saikia

2. Smti. Junu Saikia

.....Accused persons

Date of offence explanation : 09.10.2015
Dates of recording evidence of PWs : 11.02.2016, 04.11.2016,
21.06.2018,08.03.2019,
13.02.2020
Statement u/s 313, Cr.P.C recorded on : 05.12.2020
Date of argument : 05.12.2020
Date of judgment : **19.12.2020**

Advocates appeared in the case:-

Mr. Prasanta Dutta, Addl. P.P., for the State

Mr. Arup Kalita, Advocate, for the accused

J U D G M E N T

1. The prosecution case, in brief, is that on 14.03.2015 one Smti. Runi Gogoi had lodged an ejarah before the Officer-in-charge of North Lakhimpur Police Station alleging inter alia that on that day at about 9:00-9:30 PM the accused persons viz. Sri Akonman Saikia and Smti. Junu Saikia had assaulted her by pelting stones on her body and had verbally abused her with filthy language. When she came out from her house to see who was pelting stones on her house, the accused

persons thereafter had grabbed her and threatened to cut her for which she ran away from there to save her life. Hence, the case.

2. The Officer-in-charge of North Lakhimpur Police Station, on receipt of the ejahar, registered a case vide NLPS Case No. 257/2015 under section 336/294/506/323/34 of the Indian Penal Code and got the investigation into the case commenced. The investigating officer, after completing the investigation, submitted charge-sheet under section 336/294/506/323/34 of the Indian Penal Code against accused persons Sri Akonman Saikia and Smti. Junu Saikia to stand trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offence under section 336/294/506/323/34 of the Indian Penal Code was taken as per section 190(1)(b) of the Code of Criminal Procedure. The accused persons entered their appearance before the Court after receiving the summons. Copies were furnished to the accused persons as per provision contained in section 207 of the Code of Criminal Procedure. The particulars of the offence under section 336/294/506/323/34 of the Indian Penal Code were explained to the accused persons to which they pleaded not guilty and claimed to be tried.

POINTS FOR DETERMINATION :

4. The points which are required to be determined for a just decision of this case are as follows:

(a) Whether the accused persons with common intention had pelted stones in the house of the informant thereby endangering human life and personal safety of others by their such act ?

(b) Whether the accused persons with common intention had verbally abused the informant in public with filthy and obscene language to cause annoyance to her ?

(c) Whether the accused persons with common intention had voluntarily caused hurt to the informant ?

(d) Whether the accused persons with common intention had criminally intimidated the informant ?

5. During the trial the prosecution side examined 6 (six) witnesses, viz. Smti. Runi Gogoi as PW-1, Sri Chiranjib Gogoi as PW-2, Sri Dulan Dutta as PW-3, Dr. Bhupen Saikia, M/O as PW-4, SI Dipjyoti Bharali, I/O as PW-5 and Sri Garju Singh alias Gajendra Singh as PW-6. The prosecution had exhibited the ejahar as Ext-1 and the signatures of the informant therein as Ext-1(1) and Ext-1(2), the injury report as Ext-2 and the signature of the M/O therein as Ext-2(1), the rough sketch map of the place of occurrence as Ext-3 and the signature of the I/O therein as Ext-3(1), the charge-sheet as Ext-4 and the signature of the I/O therein as Ext-4(1).

6. After the closure of the prosecution evidence, the accused persons were examined under section 313 of the Code of Criminal Procedure wherein they pleaded their innocence and declined to adduce any evidence in their defence.

7. Both the sides advanced their respective arguments in this case.

DISCUSSION, DECISION AND REASONS THEREOF:

8. At the very outset it is essential to have a brief resume of the version of the prosecution witnesses in order to marshal the evidence in right perspective in tandem with the points for discussion.

9. PW-1 Smti. Runi Gogoi, the informant, in her evidence testified that on the night of incident after she returned from her shop and was washing her hands and face in her house someone pelted stones in the roof of her house and when she went out she could see the accused persons standing near their shop and she at that had asked them that why they pelted stones in their house. PW-1 deposed that the accused

persons on her asking so had assailed her. The accused Sri Akonman Saikia had grabbed her from the backside and had pulled her down to ground while the other accused Smti. Junu Saikia had pulled her by her hair. The accused Sri Akonman Saikia thereafter went to bring a 'dao' to cut her but as she shouted her elder son Sri Chiranjib Gogoi came out and had rescued her. But even though when she was leaving from there the accused persons abused her with vulgar language.

10. PW-1 in her cross-examination had stated that she didn't state before the police about the accused Sri Akonman Saikia grabbing her and other Smti. Junu Saikia pulling her by her hair.

11. Now the other witnesses PW-2 Sri Chiranjib Gogoi, the son of PW-1 in his evidence testified that on the night of incident he was waiting near a shop and at that time the accused persons were pelting stones in their house. When his mother i.e. PW-1 came out of the house to see that who was pelting stones she could see the accused persons to be present there and had asked them that why they were pelting stones. Thereafter, the accused Akonman Saikia had grabbed his mother and had pulled her down to ground and threatened her to cut his mother. He at that went to the place of occurrence and had rescued his mother and took her to his house. On the following day his mother had lodged an ejahar reporting the incident.

12. PW-2 in his cross-examination stated that at the time of incident there were none besides him and his mother at the place of occurrence.

13. Now let us have a look at the evidence of the other witnesses that what they have to say regarding the incident.

14. PW-3 Sri Dulan Dutta deposed that on the night of incident at about 9:00-9:30 PM he had gone to the shop of the accused Sri Akonman Saikia to have a betel-nut and he saw and heard stones being pelted on the tin-roof of the shop of the accused. He further stated that the house of the informant was situated near to the shop of

the accused and he saw the informant's son Sri Chiranjib Gogoi and his brother Munu coming out of their house and charging the accused Sri Akonman Saikia that why they were pelting stones on their house. They were in a mood to fight with Sri Akonman Saikia but he intervened between them and asked for not to fight. Thereafter Sri Akonman Saikia shut-down the shop and went to his house and he too left from there.

15. Again, the PW-6 Sri Garju Singh alias Gajendra Singh deposed that on the night of incident he after closing his shop was sleeping inside. He stated that his shop was nearby to the shop of the informant and the accused Sri Akonman Saikia. He could heard a hue and cry for which he came out of his shop and see a quarrel and push and thrust between the accused Sri Akonman Saikia and Sri Chiranjib Gogoi. The nearby people also gathered and they interfered and stopped the quarrel between them. Thereafter, all left for their respective home.

16. PW-6 in his cross-examination stated that the victim Sri Chiranjib Gogoi didn't tell him anything about the incident. Both the accused as well as Sri Chiranjib Gogoi were pushing each other but he didn't see them doing any other fight besides pushing each other.

17. So now going through the evidence of PWs it can be seen that there is a great disparity between their statements as PW-1 and PW-2 stated that it was the accused persons who were pelting stones to their house. But the PW-3 Sri Dulan Dutta stated that the stones were in fact being pelted in the tin-roof of the shop of the accused. He didn't state anything about the accused persons pelting any stone in the roof of the house of the accused. He was an eyewitness to the incident and narrating the incident stated that it was in fact the son of the informant Sri Chiranjib Gogoi and his brother Munu who came out of their house and had charged the accused Sri Akonman Saikia of pelting stones and they were in a mood of putting up a fight with Sri Akonman Saikia. PW-3 in fact stated that he intervened between them and asked them not to fight and thereafter he left from there. PW-3 didn't state anything

about the informant i.e. PW-1 Smti. Runi Gogoi coming to the place of occurrence or the accused assaulting her or verbally abusing her with filthy language. PW-3 in fact in his cross-examination stated that he didn't even see the informant at the place of occurrence at the time of incident.

18. PW-6 Sri Garju Singh alias Gajendra Singh in a similar manner had stated that he had only seen a quarrel and push and thrust between the accused Sri Akonman Saikia and Sri Chiranjib Gogoi. He was also an eyewitness to the incident and didn't state anything about the PW-1 Smti. Runi Gogoi to be present at the place of occurrence. PW-6 had stated about the nearby people gathering and stopping the quarrel between Sri Chiranjib Gogoi and the accused Sri Akonman Saikia. He in his cross-examination clarified that there was no other incident besides a simple push and thrust between the accused Sri Akonman Saikia and Sri Chiranjib Gogoi.

19. So the PW-6 Sri Garju Singh alias Gajendra Singh also didn't state anything about the accused persons pelting stones in the house of the informant and he also clarified that the informant was not present there at the time of incident but it was in fact a mere quarrel and simple push and thrust between the son of informant Sri Chiranjib Gogoi and the accused Sri Akonman Saikia and nothing else.

20. So the PW-3 and PW-6 who are independent witnesses have totally contradicted the versions of PW-1 and PW-2 that of the accused persons pelting stones in the house of the informant and that of the accused persons physically assaulting the PW-1 Smti. Runi Gogoi and verbally abusing her with filthy language.

21. Even the PW-4 Dr. Bhupen Saikia, M/O stated about examining Sri Chiranjib Gogoi only and didn't state anything about examining the PW-1 Smti. Runi Gogoi. The M/O stated that he on examining Sri Chiranjib Gogoi could find a swelling over his right ankle joint.

22. Now the PW-1 and PW-2 in fact didn't state anything about the accused persons physically assaulting Sri Chiranjib Gogoi and so the injury detected on the ankle of Sri Chiranjib Gogoi can no way be attributed to have been caused by the accused persons.

23. The PW-1 and PW-2 stated about the accused persons assaulting the PW-1 Smti. Runi Gogoi but the medical evidence does not support the said version.

24. Further PW-1 and PW-2 stated that there were none besides them at the place of occurrence when the incident occurred but PW-3 and PW-6 had categorically stated that the neighbouring people had gathered there while there was a verbal altercation between Sri Chiranjib Gogoi and the accused Sri Akonman Saikia. So the version of the said PWs totally contradicted with each other.

25. In the given position owing to the inconsistencies and contradictions in the versions of the PWs the evidence of PW-1 Smti. Runi Gogoi and PW-2 Sri Chiranjib Gogoi are found to be not credible at all and as such cannot be relied upon.

26. The prosecution as such has failed to bring home its case and has failed to prove the charge that the accused persons with common intention had pelted stones in the house of the informant posing a threat to the safety of the informant and her family members. Also, the prosecution has failed to prove the charge that the accused persons had verbally abused the informant with filthy language or that the accused persons voluntarily caused hurt to the informant or that the accused persons criminally intimidated the informant.

27. Hence, in the given position all the aforesaid points of determination are held in negative.

28. So the prosecution has failed to prove the case against the accused persons under section 336/294/323/506/34 of the Indian Penal

Code and as such they are acquitted from the said offences and set at liberty.

Bail bonds are extended to for the further 6(six) months from today.

The judgment is delivered and operative part of the same is pronounced in the open court on this 19th day of December, 2020.

(Shri Akhtabul Ala)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Dictated & corrected by me-

(Shri Akhtabul Ala)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Transcribed & typed by-
Sri Narayan Chetri, Stenographer

Contd. Appendix

A P P E N D I X

WITNESSES FROM THE PROSECUTION SIDE

Smti. Runi Gogoi (PW-1)
Sri Chiranjib Gogoi (PW-2)
Sri Dulan Dutta (PW-3)
Dr. Bhupen Saikia (PW-4)
SI Dipjyoti Bharali (PW-5)
Sri Garju Singh alias Gajendra Singh (PW-6)

PROSECUTION EXHIBIT

Ejahaar (Ext-1)
Signatures of the informant [Ext-1(1), Ext-1(2)]
Injury Report (Ext-2)
Signature of PW-4, M/O [Ext-2(1)]
Rough sketch map of P/O (Ext-3)
Signature of the PW-5, I/O [Ext-3(1)]
Charge-sheet (Ext-4)
Signature of PW-5, I/O [Ext-4(1)]

WITNESSES FROM THE DEFENCE SIDE

Nil

DEFENCE EXHIBIT

Nil

(Shri Akhtabul Ala)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur