

**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. 1270/2015

Under section 323/294/506 of the of the Indian Penal Code

**State of Assam
-Vs-
Sri Moon Deuri**

.....Accused

Date of offence explanation : 31.03.2016
Dates of recording evidence of PWs : 20.08.2016, 25.01.2018,
29.04.2019, 06.08.2019,
11.11.2019, 04.03.2020
Date of examination u/s 313, Cr.P.C. : 04.03.2020
Date of Argument : 04.03.2020
Date of judgment : **04.03.2020**

Advocates appeared in the case:-

Sri Prasanta Dutta, Addl. P.P., for the State
Sri D.R. Padi, Advocate, for the accused

J U D G M E N T

1. The factual matrix of the prosecution case is that one Sri Dulu Deuri on 04.07.2015 had lodged an ejahar in the Silonibari Police Outpost alleging that on 03.07.2015 at about 3:00 PM when the Lat Mandal came to measure their land the accused Sri Moon Deuri had a verbal altercation with his father Rupeswar Deuri whose one leg was disabled and thereafter the said accused had pushed his father in the

water for which he sustained injury in his leg. The accused had also hurled verbal abuses using filthy words and had also threatened them. Hence, the case.

2. On receipt of the ejahar, the same was sent to the North Lakhimpur Police Station where it was registered as NLPS Case No. 665/2015 under section 325/294/506, IPC. The investigating officer, after completing the investigation, submitted charge-sheet under section 447/323/294/506, IPC against the accused Sri Moon Deuri to stand trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offence under section 447/294/323/506, IPC was taken as per section 190(1)(b) of the Code of Criminal Procedure. The accused entered his appearance before the Court after receiving the summons. Copies were furnished to the accused as per provision contained in section 207 of the Code of Criminal Procedure. The particulars of offence under section 323/294/506, IPC when being read over and explained to the accused he 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 had voluntarily caused hurt to Sri Rupeswar Deuri the father of the informant ?

(c) Whether the accused had verbally abused Sri Rupeswar Deuri the father of the informant with filthy language in public to cause annoyance to him ?

(d) Whether the accused had criminally intimidated the informant and his father ?

5. During the trial the prosecution side examined 6 (six) PWs viz. Sri Dulu Deuri as PW-1, Sri Rupeswar Deuri as PW-2, Sri Basanta Morang as PW-3, Dr. Mirjak Al Mamud, the M/O as PW-4, ASI Dignata Kalita, the I/O as PW-5 and the other I/O Inspector Nikhil Rajkhowa as PW-6. The prosecution had exhibited the ejahar as Ext-1 and the signature of the informant therein as Ext-1(1), the statement of Sri Basanta Morang u/s 161, Cr.P.C as Ext-2, the injury report as Ext-3, the G.D. Entry extract Copy as Ext-4, the rough sketch map of the P.O as Ext-5 and the signature of the I/O as Ext-5(1) and the charge sheet as Ext-6 and the signature of the I/O as Ext-6(1).

6. The statement under section 313 of the Code of Criminal Procedure of the accused was recorded and he declined to adduce evidence in defence.

7. I have heard the argument of both sides and thereupon come to the following finding:

DISCUSSION, DECISION AND REASONS THEREOF:

8. For the sake of convenience all the points for determination are taken up together for discussion.

9. The PW-1 Dulu Deuri, the informant deposed that on the date of incident the Mandal was supposed to measure their land and as such at about 3:30 PM that day the accused entered their land and had assaulted his father Rupeswar Deuri who walk with a help of a crutch

as one of his leg was damaged. His father due to the said assault fell on the pond and sustained injuries. .

10. Now, the PW-2 Sri Rupeswar Deuri i.e. the victim of this case testified that on the date of incident at about 3:00 PM the Mandal was supposed to demarcate the boundary of his land and at that time the accused entered his land and had assaulted him and pushed him in a pond for which he fell down and sustained injury.

11. Now PW-2 in his cross-examination admitted that the accused person had also lodged a case against them and he in his further cross-examination stated that on the date of incident there was in fact only a verbal altercation between the accused on one side and he and his son Dulu Deuri on the other side over the matter of felling trees and this case in fact arose only out of a misunderstanding and that he has no objection if the accused is acquitted.

12. So from the cross-examination of the PW-2 it transpires that he has disowned the prosecution case and has in fact absolved the accused by stating that there was nothing but a mere verbal altercation between them.

13. Further, it can be seen that the PW-1 has stated that his father i.e. PW-2 Rupeswar Deuri had sustained injury in his leg due to the assault by the accused and the PW-2 also in his evidence-in-chief stated that he sustained injury in his leg but from the evidence of PW-4 Dr. Mijak Al Mamud, the M/O it can be seen that no such injury in leg was detected.

14. So, the M/O too has not supported the version of PWs.

15. So, in the given position when the victim himself has absolved the accused as discussed above, and also the M/O has not supported the ocular evidence of PWs, the prosecution story is found to be

doubtful and as such it can no way be concluded that the accused had voluntarily caused hurt to the informant or that he had hurled verbal abuses to the father of the informant in public to annoy him or to criminally intimidated anyone.

16. So consequently all the aforesaid points for determination are held in negative.

17. The prosecution has failed to prove the case against the accused under section 323/294/506, IPC and as such he is acquitted from the said offences and is set at liberty.

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

The judgment is delivered and operative part of the same is pronounced in the open court on this 4th day of March, 2020.

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

Dictated & corrected by me-

(Sri 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**

Sri Dulu Deuri (PW-1)
Sri Rupeswar Deuri (PW-2)
Sri Basanta Morang (PW-3)
Dr. Mirjak Al Mamud, the M/O (PW-4)
ASI Dignata Kalita, the I/O as (PW-5)
Other I/O Inspector Nikhil Rajkhowa (PW-6)

PROSECUTION EXHIBITS

Ejhar (Ext-1)
Signature of the informant [Ext-1(1)]
Statement of Sri Basanta Morang u/s 161, Cr.P.C [Ext-2]
Injury report (Ext-3)
G.D. Entry extract Copy (Ext-4)
Rough sketch map of the P.O (Ext-5)
Signature of the I/O [Ext-5(1)]
Charge sheet (Ext-6)
Signature of the I/O a[Ext-6(1)]

WITNESSES FROM THE DEFENCE SIDE

Nil

DEFENCE EXHIBITS

Nil

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