

**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. 1660/2016**

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

**State of Assam**

**-Vs-**

**Sri Hemanta Narah**

.....Accused

Date of offence explanation : 28.10.2016  
Dates of recording evidence of PWs : 27.10.2017, 27.02.2018,  
09.04.2018, 05.05.2018,  
15.10.2018, 01.02.2019,  
20.09.2019  
Date of examination u/s 313, Cr.P.C. : 26.11.2019  
Date of Argument : 11.02.2020  
Date of judgment : **12.03.2020**

**Advocates appeared in the case:-**

Sri Prasanta Dutta and Smti. Ajanta Sharma Baruah, Addl. P.P., for the State  
Sri Jayanta Hazarika, Advocate, for the accused

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

1. The factual matrix of the prosecution is that on 30.06.2016 Smti. Mridujyoti Gogoi had lodged an FIR with the Officer-in-charge of North Lakhimpur Police Station alleging inter alia that she is a physically handicapped person and a Post Office employee and on that day at about 10:30 PM the accused Sri Hemanta Narah who is also an employee of the Post Office physically assaulted her resulting to severe pain and swelling on her cheek. Hence, the case.

2. On receipt of the ejahar, the Officer-in-charge of North Lakhimpur Police Station registered a case vide NLPS Case No. 676/2016, under section 325 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 323/294 of the Indian Penal Code against accused Sri Hemanta Narah to stand trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offence under section 323/294 of the Indian Penal Code 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 particular of offence under section 323/294 of the Indian Penal Code when being read over and explained to the accused person 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 voluntarily caused hurt to the informant and victim Smti. Mridujyoti Gogoi ?

(b) Whether the accused had verbally abused the informant and victim Smti. Mridujyoti Gogoi with vulgar language in public to cause annoyance to her ?

5. During the trial the Prosecution side could examine 7 (seven) witnesses, including the I/O viz. Smti. Mridujyoti Gogoi as PW-1, Smti. Sashi Gogoi as PW-2, Smti. Pushpa Bhengra as PW-3, Sri Jatin Chandra Saikia as PW-4, Sri Debeswar Borah as PW-5, Sri Dipak Borah as PW-6 and SI Jyoti Mili, the I/O as PW-7. The prosecution had exhibited the ejahar as Ext-1, Ext-1(1) as signature of informant-victim (PW-1)

therein, Ext-2 as the sketch map of the place of occurrence and Ext-2(1) as signature of the I/O therein and Ext-3 the injury certificate and Ext-4 as charge-sheet and Ext-4(1) signature of the I/O therein. The defence has cross-examined prosecution witnesses and thereafter all the incriminating materials surfaced in the evidence of the prosecution witnesses against accused was put to her explanation under section 313 of the Code of Criminal Procedure. The defence plea was in completed denial.

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

**DISCUSSION, DECISION AND REASONS THEREOF:**

7. For the sake of convenience both the points for determination are taken up together for discussion.

8. Now taking up the evidence of the PW-1 Smti Mridujyoti Gogoi i.e. the informant and victim of this case first it can be seen that she testified that on 30.06.2016 when she reached the office at 10 AM and went to the office room of the Post Master for signing the attendance register she saw Suchen Peda, the then Superintendent of Post Office, Dibrugarh Division, Chandra Shekar Hazarika, Asst. Superintendent, North Lakhimpur Post Office, East Sub-Division and Prakash Khatowal, the Inspector of North Lakhimpur Post Office were also present there in the office room and they had asked her to do the duty of sub-account in the treasury room. She after signing the attendance register came to her place of duty i.e. Treasury Room and found the accused to be sitting on a chair. She at that time was accompanied by the Post Master Jatin Saikia who had asked the accused to vacate the chair and give it to her. The accused at that had assaulted her and had rebuked her by uttering unparliamentary language. The accused had slapped her, pulled her by her hair and had also assaulted her with fist blows,

9. The PW-1 at that had raised a hue and cry but none of the office employees came to rescue her and the treasurer Dipak Borah in fact had incited the accused to assault her. She as such made a phone call to the Superintendent cry but he did not give any importance for which she wanted to go to the police station for lodging an ejahar but the Post Master did not allow her to go to the police station during working hours. She stated that the Post Master also threatened her that he would create problems in her service. She as such worked in the office the whole day crying and at about 6:00 PM after her duty was over she went to the police station and had lodged an ejahar.

10. PW-1 further stated that since she is physically handicapped so a girl named Pushpa Bhengra always accompanied her and on the day of occurrence was also with her. She tried to rescue her from the assault of the accused but failed and the blows of the accused fell on her too.

11. Now the PW-2 Smti. Sashi Gogoi deposed that the informant Mridujyoti Gogoi is her daughter and the accused Hemanta Narah was her colleague. She stated that on the date of occurrence her daughter made a phone call to her and weeping told her that the accused had assaulted her by pulling her hair and slapping her for which she fell down. Her daughter also informed her that the Post Master had shut the door of the room where she was working and hearing the entire incident she wanted to go to her office but the informant asked her not to come.

12. PW-2 stated that she as such herself went to the police station but the police told that her daughter is required to be present for which she called her daughter over phone asking her to come to the police station but she replied that the Post Master would not allow her to leave in the office time. PW-2 as such returned home and thereafter went to the Head Post Office where she saw her daughter to be crying. She stayed there till 3:00 PM and after her daughter had finished the work they returned home from the Post Office. Her daughter later went to the police station and had lodged an ejahar over the matter. PW-2 stated that she saw a swelling on the cheek of her daughter and she

also told her about pain in her head because of pulling of her hair by the accused.

13. PW-2 in her cross-examination had stated that whatever she had deposed in her evidence about the occurrence was as per version of her daughter.

14. Now, the PW-3 Smti. Pushpa Bhengra stated that she had been working as a helper/assistant to the informant as she was physically handicapped. She stated about accompanying the informant to her office and staying there with her as she was having disability in her left leg. Narrating about the incident the PW-3 stated that on the date of occurrence the accused was sitting on the chair of the informant for which the informant had asked him to get up from the chair but the accused at that slapped and punched her and caught hold of her hair. He also abused her by uttering obscene/unparliamentary words. When she tried to free the informant from the accused the punches and blows of the accused fell on her also. When the informant was about to make a phone call to the police and was going out of the room for that purpose the Post Master Jatin Saikia shut the door from outside. Thereafter, the informant worked in the office in the remaining part of the day and was crying. After the office hours they went home and thereafter she along with the informant and her mother went to the police station.

15. Now, the PW-4 Sri Jatin Chandra Saikia in his evidence deposed that on the date of occurrence he was working as the Post Master of North Lakhimpur Head Post Office and at that time he had passed an order directing the accused to work in Sub-Accounts Branch of the Head Post Office until further order. The informant prior to that was working in the Sub-Accounts Branch and he was thinking to depute her to Money Order Payment branch of the Head Post Office. Then at that time a Group-D employee informed him that the informant Mridujyoti Gogoi was not allowing the accused to work in Sub-Accounts Branch. He as such went to the Sub-Accounts Branch and had asked Mridujyoti Gogoi to vacate the chair of Sub-Accounts Branch but she did not go to

the Money Order Payment Branch. She didn't do any work in the Head Post Office on that day after vacating the chair of Sub-Accounts Branch. On the following day he came to know that she had lodged a case against the accused.

16. PW-5 Sri Debeswar Borah, the Cash Overseer of North Lakhimpur Head Post Office deposed that both the informant and the accused worked in their office. The accused used to supervise the Sub-Accounts Department of their office. On the date of incident he was present at the place of occurrence i.e. the Treasury Office of their Post Office. The accused at that time was working in his own table there. The informant Mridujyoti Gogoi at that time had entered inside the treasury office and standing close to the Post Master's table holding the same she started rebuking the accused. She asked him that why he was working there and had asked him to vacate the chair and allow her to work there. The accused then replied that the Post Master had ordered him to work there and so he would not vacate the chair. Thereafter there was an altercation between them and the Post Master came and stopped the altercation between them.

17. The PW-5 in his cross-examination stated that the informant Mridujyoti Gogoi was of quarrelsome nature and her behavior was not good and he did not hear the accused assaulting her or uttering any unparliamentary word to her.

18. The PW-6 Dipak Borah the Sub-Post Master testified that both the informant and accused are employees of their Post Office and at the time of the incident he was serving as the Treasurer of the Head Post Office. The informant till that time had been sitting in the Sub-Accounts table but on the date of incident the Post Master had authorized the accused to sit in that Sub-Accounts table for which he sat and worked in that table. The informant then on seeing him sitting in that table had asked him that why he was sitting there to which the accused replied that the Post Master had asked him to sit there and over that matter there was a slight verbal altercation between both the

informant and the accused but the Post Master intervened and separated them both and made them sit in two different tables.

19. The PW-6 in his cross-examination stated that on the date of incident there was no 'Maar-pit' (fight) in their office between the informant and the accused and the informant in fact had filed this case against the accused out of a grudge as her ego was hurt when the accused sat on her table.

20. So, from the evidence on record it clearly reflects that there are two sets of witnesses in this case. The PW-5, the PW-6 and PW-7 have totally contradicted the version of PW-1, PW-2 and PW-3 as the PW-1, PW-2 and PW-3 stated that the accused had physically assaulted the informant and had used obscene language against her but the PW-5, PW-6 and PW-7 had contradicted the version of the said PWs and have stated that it was in fact the informant who had put up a quarrel with the accused only because of the reason that he was sitting on her chair as per the instruction of the Post Master. They stated that all that had happened between the informant and the accused was a mere verbal altercation and nothing else. The PW-6 in his cross-examination had stated that the informant in fact is a quarrelsome lady and her behavior was not good and that he never heard the accused using any unparliamentary words to her. The PW-6 also in his cross-examination stated that the accused never had physically assaulted the informant on the date of incident and she in fact had filed this case only out of a grudge as her ego was hurt because of the reason that the accused sat in her chair.

21. Now, PW-5 SI Jyoti Mili, the I/O of this case in his cross-examination stated that the PW-1, PW-2 and PW-3 had not stated before him in their statements u/s 161, Cr.P.C whatever they had narrated in their evidence-in-chief.

22. Now, the PW-1, PW-2 and PW-3 are related witnesses as PW-2 is the mother of PW-1 while the PW-3 was the maid and helper of the PW-1. Their version is found to be embellished one as they didn't state

before the I/O whatever they had narrated in their evidence-in-chief. Also, the PW-5, PW-6 and PW-7 who are eyewitnesses to the incident and are independent witnesses have totally contradicted the version of PW-1, PW-2 and PW-3 and have in fact stated that it was the informant who had put up the quarrel and didn't state anything incriminating against the accused.

23. Hence, in the given position the evidence of PW-1, PW-2 and PW-3 are not found to be credible and cannot be relied upon.

24. Hence, in the backdrop of the discussion made above, it can no way be concluded that the accused had assaulted the informant or that he had used any obscene or vulgar language to the accused and consequently all the aforesaid points of determinations are held in negative.

25. So the prosecution has failed to prove the case against the accused under section 323/294 of the Indian Penal Code 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 12<sup>th</sup> 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**

Smti. Mridujyoti Gogoi (PW-1)  
Smti. Sashi Gogoi (PW-2)  
Smti. Pushpa Bhengra (PW-3)  
Sri Jatin Chandra Saikia (PW-4)  
Sri Debeswar Borah (PW-5)  
Sri Dipak Borah (PW-6)  
SI Jyoti Mili, the I/O (PW-7)

**PROSECUTION EXHIBITS**

Ejhar (Ext-1)  
Signature of informant-victim [(Ext-1(1))]  
Sketch map of the place of occurrence (Ext-2)  
Signature of the I/O [(Ext-2(1))]  
Injury Certificate (Ext-3)  
Charge-sheet (Ext-4)  
Signature of the I/O [Ext-4(1)]

**WITNESSES FROM THE DEFENCE SIDE**

Nil

**DEFENCE EXHIBITS**

Nil

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