

**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. 1799/2017
U/s 341/294/506 IPC

State of Assam

-Vs-

Md. Imaduddin Ahmed

.....Accused

Date of offence explanation : 01.11.2018
Dates of recording evidence of PWs : 08.04.2019, 05.08.2019,
17.09.2019, 25.10.2019
Statement u/s 313, Cr.P.C recorded on : 30.12.2019
Date of argument : 13.02.2020
Date of judgment : **06.03.2020**

Advocates appeared in the case:-

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

Mr. Giasuddin Ahmed, Advocate, for the accused

J U D G M E N T

1. The prosecution case, in brief, is that on 20.06.2017 informant Md. Jalal Uddin Ahmed lodged an FIR with the In-charge of Khelmati Police Outpost under North Lakhimpur Police Station alleging therein that on that day at about 3:30 PM in front of Rajib Motor Garage situated at Town Bantow the accused Md. Imaduddin Ahmed without any reason assaulted him with kicks and fists causing grievous injuries to him. That apart, the accused above-named also threatened him to take his life if he report the police about the incident. Thereafter, the people of the locality rescued him from the clutches of the accused. Hence, the case.

2. The In-charge of the Khalmati Police Outpost on receipt of the ejahar effected a G.D. Entry vide Khelmati O.P. G.D Entry No. 411 dated 20.06.2017 and forwarded the ejahar to the Officer-in-charge of North Lakhimpur Police Station to register a case under proper section of law. The Officer-in-charge of North Lakhimpur Police Station, on receipt of the ejahar, registered a case vide NLPS Case No. 708/2017 under section 325/294/506 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 341/294/506 of the Indian Penal Code against accused Md. Imaduddin Ahmed to stand trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offence under section 341/294/506 of the Indian Penal Code was taken as per section 190(1)(b) of the Code of Criminal Procedure. The accused person entered his appearance before the Court after receiving the summons. Copies were furnished to the accused person as per provision contained in section 207 of the Code of Criminal Procedure. The particulars of the offence under section 341/294/506 of the Indian Penal Code were explained to the accused person to which 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 person wrongfully restrained the informant Md. Jalal Uddin Ahmed ?

(b) Whether the accused person uttered slang words to the informant Md. Jalal Uddin Ahmed in or near any public place causing him annoyed?

(c) Whether the accused person committed criminal intimidation by threatening the informant Md. Jalal Uddin Ahmed with dire consequences ?

5. During the trial the Prosecution side examined as many as 6 (six) witnesses, including the M/O and the I/O viz. Md. Jalal Uddin Ahmned as PW-1, Md. Rajib Ahmed as PW-2, Md. Azimuddin as PW-3, Md. Saiful Islam as PW-4, Dr. Mun Konwar as PW-5 and ASI Rajib Das as PW-6. The prosecution had exhibited the ejahar as Ext-1 and the signatures of the informant therein as Ext-1(1), the injury report as Ext-2 and the signature of the M/O as Ext-2(1), the extract copy of G.D. Entry as Ext-3, the rough sketch map of the place of occurrence as Ext-4 and the signature of the I/O therein as Ext-4(1), Ext-5 is the charge-sheet and Ext-5(1) is the signature of the I/O therein.

6. After the closure of the prosecution evidence, the accused was examined under section 313 of the Code of Criminal Procedure wherein he pleaded his innocence. He declined adducing any defence evidence.

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. Taking up the evidence of the informant Md. Jalal Uddin Ahmed i.e. PW-1 first it can be seen that he testified that on the date of incident which was in the month of Ramjan he was waiting in front of Rajib motorcycle garage for the arrival of the school bus of his daughter and at that time the accused arrived there and picked up a quarrel with the mechanic of the garage and uttered obscene language to the said mechanic named Ajij. He at that had asked the accused not to utter those obscene words as Ajij and he were observing fast but at that the accused had caught hold of him by his neck and asked that

why he was interfering in the matter. Thereafter, he punched him in his face, back and chest. As a result of which his neck got swelled. Thereafter, Rajib Ali along with another person appeared there and stopped the accused from assaulting him.

10. PW-1 stated that he sustained injuries in his face, back and neck and the accused also had pulled a hammer from the garage for assaulting him as he was not satisfied by punching him.

PW-1 in his cross-examination stated that he didn't know the accused by his name and face but used to see him and it was Mintu Ali and the mechanic Ajij who told him about the name of the accused.

11. Now the other witness i.e. PW-2 Rajib Ahmed testified that the occurrence took place in the year 2017 at about 3:00 PM in front of his garage where he was present. At that time the informant Jalal Uddin had given his bike for repairing in his garage. At that time, an altercation took place between the accused and the informant. The accused was uttering something which the informant had asked him not to utter and over that matter a quarrel started and thereafter the accused started giving random fist blows and kicks to the informant Jalal Uddin.

12. The PW-1 in his cross-examination stated that the informant is a regular customer of his garage.

13. The PW-3 Azimuddin stated that about two years back there was a quarrel in front of their garage but it was a simple verbal altercation.

14. The PW-4 Saiful Islam stated that he doesn't know anything about the incident.

15. Now a look at the evidence of the PW-6 ASI Rajib Das, the I/O it can be seen that he in his cross-examination stated that the witness Jalal Uddin did not tell before him in his statement u/s 161, Cr.P.C. that at that time he was waiting for the bus to take his school going daughter and that the accused was altercation with a mechanic of a garage by using foul language and as such he had asked the accused

not to use such foul language as Ramjan was going on and at that the accused asked who was he and thereupon give him fists blows on his neck, face and back and that he sustained starched injuries but could not retaliate as he is a physically disabled person and that Rajib Ali and another of this friend came and rescued him and that the accused took out a hammer from the garage to assault him.

16. So from the evidence of the I/O it can be seen that the PW-1 had not stated before the I/O whatever he deposed in his evidence-in-chief and so there seems to be an embellishment in the version of PW-1.

17. Further, the PW-1 stated that it was PW-2 who had stopped the accused and had rescued him but the PW-2 in his evidence didn't state that he had stopped the accused or that he had rescued the PW-1. So a contradiction in that regard is visible.

18. Further, the PW-3 Azimuddin had stated that all that had happened was a mere verbal altercation and nothing else. The PW-4 on the other hand was not even aware of any incident. So the said PWs didn't support the version of PW-1.

19. Now most importantly the PW-1 stated that the accused had punched in his face, chest and back for which he had sustained injuries but the PW-5 Dr. Mon Konwar the M/O in his evidence stated that he on examining the informant Md. Jalal Uddin didn't see any injury on his body. So the medical evidence clearly goes to contradict the version of the PW-1 and it can be seen that the PW-1 in fact didn't sustain any injury as alleged by him.

20. So in the given position the evidence of PW-1 is found to be not credible at all. Also, the PW-2 Rajib Ahmed in his cross-examination stated that the informant was one of his regular customer. So in that regard in view of the inconsistencies in the evidence of the PWs mentioned above, it cannot be ruled out that PW-2 is an interested witness and had deposed in favour of his customer i.e. the informant.

21. Also the PW-1 in his evidence didn't state anything about the accused restraining him by restricting his movement, or that of uttering any vulgar words to him or threatening him. The PW-2 also had not stated anything about the accused restraining the informant or using vulgar words to him or that of threatening him.

22. So in the given situation from the evidence on record it is considered that the prosecution has failed to prove about the fact of the accused wrongfully restraining the informant or that of the accused verbally abusing the informant with filthy language in public to cause annoyance to him or that of threatening him.

23 Hence, all the above said points of determination are held in negative.

24. The prosecution has failed to prove the offence against the accused u/s 341/294/506 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 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 6th day of March, 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

Md. Jalal Uddin Ahmned (PW-1)

Md. Rajib Ahmed (PW-2)

Md. Azimuddin (PW-3)

Md. Saiful Islam (PW-4)

Dr. Mun Konwar (PW-5)

ASI Rajib Das (PW-6)

PROSECUTION EXHIBIT

Ejhar (Ext-1)

Signatures of the informant [Ext-1(1)]

Injury report (Ext-2)

Signature of the M/O as [Ext-2(1)]

Extract copy of G.D. Entry (Ext-3)

Rough sketch map of the place of occurrence (Ext-4)

Signature of the I/O [Ext-4(1)]

Charge-sheet (Ext-5)

Signature of the I/O [Ext-5(1)]

WITNESSES FROM THE DEFENCE SIDE

Nil

DEFENCE EXHIBIT

Nil

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