

**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. 2777/2012**

Under section 341/352/294/506/34 of the Indian Penal Code

**State of Assam**

**-Vs-**

**1. Md. Abu Hanif**

**2. Md. Kasem Ali**

**3. Md. Abul Hussain**

..... Accused persons

Date of offence explanation : 04.02.2020  
Dates of recording evidence : 11.03.2020  
Date of examination u/s 313, Cr.P.C. : 11.03.2020  
Date of argument : 11.03.2020  
Date of judgment : **11.03.2020**

**Advocates appeared in the case:-**

Sri Prasanta Dutta and Smti. Ajanta Sharma Baruah, Addl. P.P., for the State  
Sri Debabrat Neog, Advocate, for the accused persons

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

1. This case has arisen out of an ejahar lodged on 17.09.2017 by informant Md. Aijuddin with the In-charge of Bongalmara Police Outpost under Bihpuria Police Station alleging inter alia that accused Md. Abu Hanif is the husband of his sister Musstt. Mojida Begum and the other two accused persons viz. Md. Kasem Ali and Md. Abul Hussain are the brothers

of accused Md. Abu Hanif. The accused Md. Abu Hanif subjected his said sister Musstt. Mojida Begum to cruelty by torturing her and as such she lodged an ejahar against him and took shelter in his house and out of that grudge on 17.09.2017 at about 9:00 AM while he was returning home after selling hens the accused persons above named, on the road, in front of their house, wrongfully restrained him and pushed and pulled him and with a view to kill him tried to throw him in the Pabha river and at that time a person named Md. Asmot Ali came there and saved him from the clutches of the accused persons. It is further alleged that the accused Md. Abu Hanif snatched away an amount of Rs. 2,000/- (rupees two thousand) from his pocket. Hence, the case.

2. The In-charge of Bongalmara Police Outpost, on receipt of the ejahar, effected a G.D. Entry vide Bongalmara Police Outpost G.D. Entry No. 277 dated 17.09.2017 and forwarded the same to the Officer-in-charge of Bihpuria Police Station to register a case under proper section of law. The Officer-in-charge of Bihpuria Police Station had registered the said ejahar as Bihpuria P.S. Case No. 848/2017 under section 341/352/379/506/34 of the Indian Penal Code and the I/O of this casa after due investigation had submitted charge-sheet against the accused persons Md. Abu Hanif, Md. Kasem Ali and Md. Abul Hussain under section 341/352/294/506/34 of the Indian Penal Code to stand trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offence under section 341/352/294/506/34 of the Indian Penal Code was taken as per section 190(1)(b) of the Code of Criminal Procedure. Necessary copies were furnished to the accused persons as per section 207 of the Code of Criminal Procedure after their appearance before the Court. After considering the materials on record and hearing both the sides, the particulars of offence under section 341/352/294/506/34 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 on 17.09.2017 at about 9:00 AM had wrongfully restrained the informant Md. Aijuddin on the road in front of their house ?

(b) Whether the accused persons with common intention on 17.09.2017 at about 9:00 AM had used criminal force against the informant ?

(c) Whether the accused persons with common intention on 17.09.2017 at about 9:00 AM had hurled verbal abuses using vulgar and obscene language to the informant in public to cause annoyance to him ?

(d) Whether the accused persons with common intention on 17.09.2017 at about 9:00 AM had criminally intimidated the informant threatening to take his life ?

5. During the trial, the prosecution examined only one witness viz. Md. Aijuddin as PW-1. Considering the nature of the evidence of the PW-1, the informant and victim, the prosecution closes further evidence as other PWs are not likely to change the merit of this case. The prosecution exhibited the ejahar as Ext-1 and the signature of the informant therein as Ext-1(1). 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 adducing any defence evidence.

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

**DISCUSSION, DECISION AND REASONS THEREOF:**

7. Now to determine the aforesaid points of determination let us have a scrutiny at the evidence of the PW.

8. Now taking up the evidence of PW-1 Md. Aijuddin i.e. the informant and victim himself it can be seen that he in his evidence testified that the accused Abu Hanif is the husband of his sister while the rest two accused persons are the brothers of accused Abu Hanif. On the date of the incident he met the accused persons on the way and had a verbal altercation with them over some family matter and later on, out of a misunderstanding he lodged an ejahar against the accused persons but the matter of dispute between them was later resolved. In his cross-examination he had categorically stated that he does not have any objection if the accused persons are acquitted as this case arose only out of a misunderstanding.

9. Thus, it is quite apparent from the evidence on record that PW-1 the informant and victim of this case has not at all implicated the accused persons and he has not even stated anything about the occurrence as alleged by the prosecution. As per his version, there was a verbal altercation between him and the accused persons over some family matters and out of misunderstanding he had lodged an ejahar against the accused persons but the matter in dispute between them was later resolved. That apart, nothing else had happened. He clarified in his cross-examination that he does not have any objection if the accused persons are acquitted as this case arose only out of a misunderstanding.

10. In the given position, from the evidence on record it can no way be held that the accused persons with common intention had wrongfully restrained the informant to proceed further or used criminal force against him or that they had verbally abused him with filthy language in public to cause annoyance to her or that they had criminally intimidated him with life. Hence, all the aforesaid points of determination are held in negative.

11. So the prosecution has failed to prove the case against the accused persons under section 341/352/294/506/34 of the Indian Penal Code and as such they are acquitted from said offences and are 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 11<sup>th</sup> day of March, 2020.

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

Dictated and Corrected by me:

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

Transcribed and typed by me:  
Narayan Chetri, Stenographer

Continued.....

**A P P E N D I X**

**WITNESSES FROM THE PROSECUTION SIDE**

Md. Aijuddin (PW-1)

**PROSECUTION EXHIBIT**

Ejahaar (Ext-1)

Signature of PW-1 [Ext-1(1)]

**WITNESSES FROM THE DEFENCE SIDE**

Nil

**DEFENCE EXHIBIT**

Nil

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