

**IN THE COURT OF JUDICIAL MAGISTRATE 1ST CLASS,
LAKHIMPUR, NORTH LAKHIMPUR.**

GR CASE NO.2043/2018
U/S 323/294/379/506 IPC

PRESENT:

SMT. SWEETY BHUYAN
Judicial Magistrate 1st Class
Lakhimpur, North Lakhimpur.

PARTIES:

STATE OF ASSAM

Vs

SRI ATUL MOHAN TIWARI

..... **ACCUSED PERSON**

Appearance:

For the State: MR. JANGKI DOLEY

For the accused person: MR. MANAB JYOTI GOGOI

Date of Evidence: 07.03.2020

Date of Argument: 07.03.2020

Date of Judgment: 07.03.2020

JUDGMENT

- 1.** The accused person, namely, **Sri Atul Mohan Tiwari**, S/o Sri Guru Charan Tiwari, R/o village - Bihpuria Ward No.3, P.S.- Bihpuria, in the District of Lakhimpur, here in this case has been put to trial to answer the charges for the offence Punishable under section 323/294/379/506 of the Indian Penal Code.

- 2.** The brief facts of the prosecution case is that the accused with his vehicle "Jai Maa Laxmi" tried to hit the vehicle of the informant, namely, "Anirudha" which was driven by the informant and on the day of the incident also tried to do such act, as such, on 16.08.2018 at about 7:15 P.M. the informant met the accused in the said vehicle at the Bihpuria Traffic Point and called him and asked him about the matter, then the accused punched him on his face and assaulted him and uttered obscene words against him and snatched away Rs.9000/- from his pocket and threatened to destroy his vehicle by knocking it down. Hence, the case and the same was registered as Bihpuria Police Station Case No.521/2018 under Sections 325/294/379/506 IPC against Sri Atul Mohan Tiwari named in the ejahar. The I.O submitted Charge Sheet against the accused Sri Atul Mohan Tiwari under Sections 294/323/506 of IPC. The accused person took bail from the court and copy has been furnished to the accused u/s 207 CrPC.
- 3.** On going through the materials on record, this court is of the opinion that there is sufficient grounds to presume that the accused person has committed an offence under Sections 323/294/379/506 of the Indian Penal Code, which this court is competent to try and adequately punish. Accordingly, charges under the said Sections are framed and the particulars of the said offences are read over and explained to the accused person, to which he pleaded not guilty and claimed to be tried.
- 4.** In support of the case, the prosecution has adduced 1(one) PW, i.e., the informant. The statement of the accused person u/s 313 CrPC is dispensed with due to lack of incriminating materials.

5. After perusing the case record and hearing both sides the following points of determination are framed:

- (i) Whether the accused, on 16.08.2018 at about 7:15 P.M. near the Bihpuria Traffic Point, voluntarily caused hurt to the informant and thereby committed an offence punishable under Section **323** of IPC?
- (ii) Whether the accused, on 16.08.2018 at about 7:15 P.M. near the Bihpuria Traffic Point, uttered obscene words against the informant, in or near any public place to the annoyance of other persons and thereby committed an offence punishable under section **294** IPC?
- (iii) Whether the accused, on 16.08.2018 at about 7:15 P.M. near the Bihpuria Traffic Point, intending to take out of the possession of the informant Rs.9,000/- from his pocket without his consent and moved the same in order to such taking and thereby committed an offence punishable under Section **379** of the Indian Penal Code?
- (iv) Whether the accused, on 16.08.2018 at about 7:15 P.M. near the Bihpuria Traffic Point, criminally intimidated the informant and thereby committed an offence punishable under Section **506** IPC?

Decisions and Reasons for decision:

6. I have heard the argument from both sides.

7. All the points for determination are decided together for the purpose of convenience.

- 8.** This is a case under Sections 323/294/379/506 IPC, in which the informant, who is the principal witness, stated in his evidence as PW1 before the court that the incident took place about one and half years ago in the evening time on the road at Bihpuria. On the day of the incident, there was a traffic jam and, as such, there was a quarrel between him and the accused. His money of the amount of Rs.9,000/- got lost during the quarrel, however, later on, he found it. The accused did not assault him. There was scuffling between him and the accused and, as such, he sustained simple injury. Out of anger he lodged the case against the accused. At present they have been staying peacefully. In his cross-examination, he deposed that he has no grievances against the accused and if he is acquitted, he has no objection.
- 9.** The PW1 did not state about any offence committed by the accused person. The PW1 is the main witness being the informant/victim, he did not support his own case.
- 10.** Hence, summing up all that has been discussed above, nothing reveals the commission of any offence as alleged by the informant against the accused person thereby the prosecution has miserably failed to establish the guilt of the accused person under Sections 323/294/379/506 of I.P.C., thereby making him not guilty under the said Sections.

(Contd....)

ORDER

As this court finds the accused person, namely, **Sri Atul Mohan Tiwari** not guilty of the offence u/s 323/294/379/506 of the Indian Penal Code, the accused person is acquitted of the charges u/s 323/294/379/506 of the Indian Penal Code.

The accused person is set at liberty forthwith.

The bail bond is extended for 6 (six) months from today.

The judgment is pronounced in the open court.

Given under my hand and seal of this court on 7th Day of March, 2020.

(SMT. SWEETY BHUYAN)
JUDICIAL MAGISTRATE 1ST CLASS
Lakhimpur, North Lakhimpur

Dictated & Corrected by me:

(SMT. SWEETY BHUYAN)
JMFC,NORTH LAKHIMPUR

Transcribed & typed by me:

Kumar Gaurav (Stenographer)

APPENDIX

Prosecution witnesses

1. PW1 : LOHIT DAS @ DUDU

Defence witnesses

Nil.

Documents exhibited by the prosecution

1. Ext.1: EAHAR

Documents exhibited by the Defence

Nil.

(SMT. SWEETY BHUYAN)
JUDICIAL MAGISTRATE 1ST CLASS
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