

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

**GR CASE NO.326/2016
U/S 323/294/506/34 IPC.**

PRESENT:

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

PARTIES:

STATE OF ASSAM

Vs

1. MD. JAKARIA RAHMAN

2. MD. NAJIBUR RAHMAN

3. MUSTT. JAHANARA BEGUM

..... **ACCUSED PERSONS**

Appearance:

For the State: MR. JANGKI DOLEY

For the accused persons: MRS. RUPANTI DUTTA

Date of Evidence: 06.03.2020

Date of Argument: 06.03.2020

Date of Judgment: 06.03.2020

JUDGMENT

1. The accused persons, namely, **Md. Jakaria Rahman**, Son of Md. Abdul Subur, **Md. Najibur Rahman**, Son of Md. Abdul Subur, and **Mustt. Jahanara Begum**, Wife of Md. Abdul Subur, R/o Village - Borbam Pathar, Police Station - North Lakhimpur, in the District of Lakhimpur, here in this case have been put to trial to answer the charges for the offence Punishable under Section 323/294/506/34 of the Indian Penal Code.
2. The brief facts of the prosecution case is that on 11.02.2016 at about 11 A.M. on the provocation of the accused Md. Abdul Subur, the other accused persons named in the ejahar, carrying lathi and forming a group, with the intention of killing the son of the informant, namely, Md. Ubedul Hazarika, assaulted him and when the informant and his wife went to stop the accused persons, they assaulted both of them with stick and uttered obscene words against them and threatened to kill them. Hearing the noise the villagers gathered and the accused persons fled away. Hence, the case, and the same was registered as North Lakhimpur Police Station Case No.164/2016 under Sections 143/325/307/323/294/506 of the Indian Penal Code against Md. Abdul Subur, Md. Jakaria Rahman, Md. Najibur Rahman and Mustt. Jahanara Begum and Mustt. Sabina @ Rakhi named in the ejahar. The Investigating Officer submitted Charge Sheet against three accused persons, namely, Md. Jakaria Rahman, Md. Najibur Rahman and Mustt. Jahanara

Begum under Sections 447/323/294/506/34 of the Indian Penal Code.

3. After appearance of the accused persons, copies were furnished to them. After perusing CR and hearing the charges u/s 323/294/506/34 IPC are framed by which on being read over and explained to both the accused, they pleaded not guilty and claimed to be tried.
4. In support of the case, the prosecution has adduced 2(two) PWs. As the informant has expired, and the witnesses examined as PW1, who is the wife of the deceased informant and PW2, who is the son of the deceased informant, did not state anything incriminating against the accused persons, as such, the examination of the accused persons under Section 313 of CrP.C. is hereby dispensed with.
5. After perusing the case record and hearing both sides the following points for determination are framed:

The Points for Determination:

- (i) Whether the accused persons, on 11.02.2016 at about 11 A.M. (place not mentioned), in furtherance of their common intention, voluntarily caused hurt to the informant, his son Ubedul Hazarika and wife of the informant Saleha Hazarika, and thereby committed offence under Section **323/34** of IPC?
- (ii) Whether the accused persons, on 11.02.2016 at about 11

A.M. (place not mentioned), in furtherance of their common intention, uttered obscene words against the informant, his son and wife, in or near any public place to the annoyance of other persons, and thereby committed an offence under section **294/34** IPC?

- (iii) Whether the accused persons, on 11.02.2016 at about 11 A.M. (place not mentioned), in furtherance of their common intention, criminally intimidated the informant, his son and wife with the threat to cause death and thereby committed the offence under Section **506/34** 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.

The informant, who alleged that the accused persons committed the offence, expired, and as such, he could not be examined and the witness examined as PW1, who is the wife of the informant stated all the accused persons are her neighbours and relatives. The incident took place about 4-5 years ago. On the day of the incident, there was some altercations between her husband and the accused persons relating to some land disputes. Her husband expired on 29.07.2019. The land disputes between them has been settled and both the parties have been staying peacefully since several years. The accused persons did not assault her or her

husband or her son Ubedul Hazarika. In her cross-examination, PW1 stated that there have been amicable settlement between them and the accused persons and she has no grievances against the accused persons and if they are acquitted, she has no objection. As such, from the evidence of the PW1, it can be known that she did not state anything incriminating materials against the accused persons.

Moreover, the PW2 who is the son of the informant, stated in his evidence that all the accused persons are his neighbours and relatives. The incident took place about 3-4 years ago. On the day of the incident, there was some altercations between them and the accused persons relating to some land disputes. His father expired on 29.07.2019. The land disputes between them has been settled and both the parties have been staying peacefully since several years. His father lodged the case out of misunderstanding. Now they do not want to continue the case as the matter has been settled amicably. The accused persons did not assault him. He did not sustain any injury. In his cross-examination, the PW2 stated that there have been amicable settlement between them and the accused persons. He has no grievances against the accused persons and if they are acquitted, he has no objection.

In order to establish the guilt of the accused persons, it is essential that the informant is examined and cross-examined, however, due to his death the same could not be done. Moreover, the wife of the informant PW1 and the son of the informant PW2 who

are also the victims did not state about any offence committed by the accused persons and on the contrary they have settled the matter amicably and have no grievances against the accused persons.

Hence, the prosecution has failed to establish the guilt of both the accused persons u/s 323/294/506/34 the Indian Penal Code beyond reasonable doubt, thereby making them not guilty under the said Section.

(Contd....)

ORDER

As this court finds all the accused persons, namely, **Md. Jakaria Rahman, Md. Najibur Rahman** and **Mustt. Jahanara Begum**, not guilty of the offence u/s 323/294/506/34 of IPC, the accused persons are acquitted of the charges u/s 323/294/506/34 of IPC.

The accused persons are set at liberty forthwith.

The bail bonds are 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 6th 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: MUSTT. SALEHA BEGUM HAZARIKA
2. PW2: MD. UBEDUL HAZARIKA

Defence witnesses

Nil.

Documents exhibited by the prosecution

Nil.

Documents exhibited by the Defence

Nil.

(SMT. SWEETY BHUYAN)
JUDICIAL MAGISTRATE 1ST CLASS
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