

**IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE
AT NORTH LAKHIMPUR**

G.R CASE NO: 1484 OF 2016
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: MD. SAMSUL HAQUE AND 2 ORS.

DISTRICT: NORTH LAKHIMPUR
IN THE COURT OF ADDITIONAL CHIEF JUDICIAL
MAGISTRATE, AT NORTH LAKHIMPUR

GR CASE NO: 1484 / 2016

U/S 341/323/294/506/34 OF I.P.C

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: MD. SAMSUL HAQUE AND 2 ORS.

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P
ADVOCATE FOR THE ACCUSED: MR. BULUMONI DAS

OFFENCE EXPLAINED ON : 07.06.2019
EVIDENCE RECORDED ON : 19.12.2019

ARGUMENT HEARD ON : 24.12.2019
JUDGMENT DELIVERED ON : 24.12.2019

JUDGMENT

PROSECUTION'S CASE IN BRIEF

1. Prosecution's case in brief as it reveals from the F.I.R is that about fifteen days prior to the lodging of F.I.R, accused Md. Akkash Ali purchased a T.V from informant's husband Md. Ahadullah for an amount of Rupees 4700/- and accordingly paid Rupees 4000/- with a promise to pay the remaining Rupees 700/- after a few days. On 14/06/2016, while informant's husband went to the house of said accused to bring the said Rupees 700/- at that time the said accused physically tortured informant's husband and caused injury. On that day itself, a case was registered in Laluk P.S about the matter. However, the said accused alongwith co-accused Musstt.

Samsun Nehar and Md. Samsul Haque after coming to know about the lodging of said case, came to the house of informant armed with "lathi" and "dao" on 14/06/2016 at about 11:00 P.M and then stabbed on the bamboo wall of the house of informant with "lathi" and "dao" and also rebuked the informant and her husband by using obscene language and also threatened them. The people nearby then came forward due to which the accused persons fled away. The informant then lodged an F.I.R about the occurrence before the Learned Executive Magistrate which was then forwarded to O/C of Laluk P.S for taking necessary action.

2. On receipt of the F.I.R, police registered a case and after investigation submitted charge sheet against accused Md. Samsul Haque @ Samsuddin, Md. Akkash Ali, and Musstt. Samsul Nehar for the offences punishable under section 341/323/294/506/34 of I.P.C. Copies of relevant documents were furnished to the accused persons u/s 207 CrPC. Considering the relevant documents and hearing both the parties, particulars of the offences punishable u/s 341/323/294/506/34 of IPC are read over and explained to the accused persons to which they pleaded not guilty and stood to face the trial.

3. The prosecution in support of its case examined two witnesses; whereas the accused did not adduced evidence of any witness. The examination of accused u/s 313 of CrPC was dispensed with finding no incriminating materials against them. I have heard the learned counsel for both the parties.

4. Upon hearing and on perusal of record I have framed the following points for determination-

POINTS FOR DETERMINATION:

(1) Whether the accused persons on 14/06/2016 at about 11:00 P.M at No.2 Karunabari under Laluk P.S, in furtherance of their common intention, voluntarily obstructed the informant and her husband so as to prevent them from proceeding in any direction in which they had a right to proceed, and thereby committed an offence punishable under section 341/34 of I.P.C?

(2) Whether the accused persons on 14/06/2016 at about 11:00 P.M at No.2 Karunabari under Laluk P.S, in furtherance of their common intention, voluntarily assaulted the informant and her husband with the intention to cause hurt, and caused injury to them, and thereby committed an offence punishable under section 323/34 of I.P.C?

(3) Whether the accused persons on 14/06/2016 at about 11:00 P.M at No.2 Karunabari under Laluk P.S, in furtherance of their common intention, rebuked

the informant and her husband by using obscene language in or near any public place to the annoyance of informant and her husband, and thereby committed an offence punishable under section 294/34 of I.P.C?

(4) Whether the accused persons on 14/06/2016 at about 11:00 P.M at No.2 Karunabari under Laluk P.S, in furtherance of their common intention, threatened the informant and her husband with injury to their person, with the intent to cause alarm, and thereby committed an offence punishable under section 506/34 of I.P.C?

DISCUSSION OF EVIDENCE, DECISION AND REASONS THEREOF:

POINT NO.1 & 2

5. For the sake of convenience and as because point no.1 & 2 are inter-connected, hence they are taken up herein together for discussion & decision. As regards the aforesaid points for determination, informant Musstt. Halima Begum in her evidence in chief has stated that she knows the accused persons who are her family members. About 02 ½ years back on a day at about 11:00 A.M, she and her husband had an altercation with the accused persons with respect to some financial transaction. Thereafter she lodged an F.I.R against the accused persons. Exhibit – 1 is the F.I.R in which exhibit – 1(1) & 1(2) are her signatures. After lodging of that F.I.R, the aforesaid dispute between both the parties got settled amicably due to which she is not interested to proceed with this case any further. During her cross-examination, PW1 has stated that she do not have any objection if the accused persons are acquitted from this case.

6. PW2 Md. Ahadullah in his evidence in chief has stated that the informant is his wife and he knows the accused persons who are from his same family. About 02 ½ years back on a day at about 11:00 A.M, he and his wife had an altercation with the accused persons with respect to some financial transaction. Thereafter his wife lodged an F.I.R against the accused persons. After lodging of that F.I.R, the aforesaid dispute between both the parties got settled amicably due to which he is not interested to proceed with this case any further. During his cross-examination, PW2 has stated that he do not have any objection if the accused persons are acquitted from this case.

7. At the time of arguments, learned counsel for defence submitted that the prosecution has failed to prove its case, and hence, the accused persons are liable to be acquitted from this case.

8. On perusal of the evidence deposed by PW1 & PW2 as narrated above, it is seen that at the time of occurrence, the informant and her husband allegedly had an altercation with the accused persons with respect to some financial transaction. There is nothing in the evidence of PW1 & PW2 which can show that the accused persons wrongfully restrained the informant and her husband, or assaulted and caused hurt to them, or threatened them or rebuked them by using obscene words. The PW1 & PW2 in their respective evidence have not stated anything about any wrongfully restraint by the accused persons, or assault, or threat by the accused persons, or use of any obscene words by the accused persons. A simple altercation between both the parties cannot be understood to constitute the offences as alleged. There is no iota of evidence in the case record which can prove the offences as alleged in the F.I.R. Hence, it is clear that the witnesses examined by prosecution have not deposed any incriminating evidence and have failed to prove the case of prosecution as alleged in the F.I.R.

DECISION: Point no.1, 2, 3 & 4 are therefore decided in the negative and goes against the prosecution.

ORDER

9. In view of the discussions made above and the decisions reached in the foregoing points for determination, it is held that the witnesses examined by prosecution have failed to prove that accused Md. Samsul Haque @ Samsuddin, Md. Akkash Ali, and Musstt. Samsul Nehar have committed the offences punishable under section 341/323/294/506/34 of IPC as alleged, and as such, the accused persons are acquitted of the charges under section 341/323/294/506/34 of IPC and they be set at liberty forthwith.

The bail bond submitted by the accused shall remain in force for another six months from today.

This judgment is given under my hand, and seal of this court on this the 24th day of December, 2019.

The case is disposed of on contest.

F.U. Choudhury
Additional Chief Judicial Magistrate
North Lakhimpur

APPENDIX

(A) **PROSECUTION EXHIBITS**

Exhibit. 1 – FIR

(B) **DEFENCE EXHIBITS**

Nil

(C) **PROSECUTION WITNESSES**

P.W. 1 – Mustt. Halima Begum

P.W. 2 – Md. Abdullah

(D) **DEFENCE WITNESSES**

Nil

F.U. Choudhury
Additional Chief Judicial Magistrate
North Lakhimpur