

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,  
LAKHIMPUR, NORTH LAKHIMPUR, ASSAM**

Present: Shri Narayan Kuri, AJS,  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur, Assam

**G.R. 982/2016**

Under section 341/294/352/323/34 of the Indian Penal Code

**State of Assam**

**-Vs-**

**1. Sri Mukunda Chetia**

S/O: Sri Priyaram Chetia

R/O: vill: Santapur

P/S: Bihpuria

District: Lakhimpur, Assam

**2. Sri Nabajyoti Gogoi**

S/O: Sri Ripeswar Gogoi

R/O: Bihpuria, Ward no-1

P/S: Bihpuria

District: Lakhimpur, Assam

.....Accused persons

Date of offence explanation : 08.03.2019

Date of recording evidence : 05.11.2019

Date of argument : 05.11.2019

Date of judgment : **05.11.2019**

**Advocates appeared in the case:-**

Sri Prashanta Dutta, Addl. P.P., for the State

Mr. Pankaj Saikia, Mr. K.F Ansari, Learned Defence Counsel, for the  
accused persons

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

1. The vignette of the prosecution case is that on 30.04.2016 informant Md. Sahdulla Rahman lodged an ejahar before the then Officer-in-charge of Bihpuria Police Station alleging that at about 8:45 PM on that night, some furniture for his shop had arrived from

Guwahati and the same was unloading in front of his neighbouring shop Ansari Furniture, when accused Md. Mahfuj Ansari and Nitul Gogoi being the staff of Ansari Furniture had ill-treated him with obscene words and accused Sri Nitul Gogoi had given punch in his cheek. Hence, the case.

2. The Officer-in-charge of Bihpuria Police Station, on receipt of the ejahar registered a case vide Bihpuria P.S. Case No. 266/2016 under section 341/294/323/34 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 341/294/352/323/34 of the Indian Penal Code against accused persons Sri Mukunda Chetia and Sri Nabajyoti Gogoi to stand trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offence under section 341/294/352/323/34 of the Indian Penal Code was taken as per section 190(1)(b) of the Code of Criminal Procedure. On receipt of the summon, the accused persons appeared before the Court and necessary copies were furnished to them as per section 207 of the Code of Criminal Procedure. The particulars of the offence under section 341/294/352/323/34 of the Indian Penal Code were explained to the accused persons to which they pleaded not guilty and claimed to face the trial.

**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, on 30.04.2016, at about 08:45 PM, in front of Ansari Furniture Shop, PWD Road, under Bihpuria Police Station, in furtherance of their common intention, wrongfully restrained the informant Md. Sahadullah Rahman, and thereby committed an offence punishable under section 341/34 of the Indian Penal Code?

(b) Whether the accused persons, on 30.04.2016, at about 08:45 PM, in front of Ansari Furniture Shop, PWD Road, under Bihpuria Police Station, in furtherance of their common intention, uttered slang words to the informant Md. Sahadullah Rahman in or near any public place, and thereby committed an offence punishable under section 294/34 of the Indian Penal Code ?

(c) Whether the accused persons, on 30.04.2016, at about 08:45 PM, in front of Ansari Furniture Shop, PWD Road, under Bihpuria Police Station, in furtherance of their common intention, used criminal force to the informant Md. Sahadullah Rahman, and thereby committed an offence punishable under section 352/34 of the Indian Penal Code?

(d) Whether the accused persons, on 30.04.2016, at about 08:45 PM, in front of Ansari Furniture Shop, PWD Road, under Bihpuria Police Station, in furtherance of their common intention, voluntarily caused hurt to the informant Md. Sahadullah Rahman, and thereby committed an offence punishable under section 323/34 of the Indian Penal Code?

5. During the trial, the prosecution examined only one (01) witness, namely, Md. Sahdullah Rahman as PW1 (informant-cum-victim). In the instant case, the informant-cum-victim has been examined but he has not stated any incriminating materials against the accused person, as such, learned Addl. P.P. prayed for closure of the prosecution evidence. Considering the materials in evidence, the prayer of the prosecution was allowed and the prosecution evidence was closed. The examination under section 313 of the Code of Criminal Procedure of the accused persons were dispensed with as no incriminating circumstance appeared against them in the evidence adduced in this case. Defence side declined to adduce any evidence. Both the sides advanced their respective arguments in this case.

**DISCUSSION, DECISION AND REASONS THEREFOR:**

6. At the very outset it is essential to have a brief resume of the version of the witness in order to marshal the evidence in right perspective in tandem with the points for discussion.

7. PW-1 Md. Sahadullah Rahman, informant, has exhibited Exhibit-1 as the ejahar wherein Exhibit-1(1) is his signature. He has stated that the occurrence had taken place about three years ago at about 8:30 PM, in front of his shop on the road. At that time, he had some verbal altercation with the accused persons regarding some domestic disputes. Thereafter, a police vehicle came to the place of occurrence and took the accused persons along with them after viewing the occurrence. Thereafter, he lodged an ejahar against the accused persons in connection with the occurrence. In his cross-examination, he has stated that he lodged the instant case due to misunderstanding, as such he does not have any objection if the accused persons are acquitted from this case.

8. Thus, it is quite apparent from the evidence on record that PW-1 (informant-cum-victim) has not at all implicated the accused persons in this case and he has not even stated anything about the occurrence as alleged by the prosecution. As per his version, it appears to me that on the day of the occurrence, only a verbal altercation had taken place between him and the accused persons regarding some domestic disputes. Thereafter, a police vehicle came to the place of occurrence and took the accused persons along with them after viewing the occurrence. Thereafter, he lodged an ejahar against the accused persons in connection with the occurrence. In his cross-examination, he has clearly stated that as the case was lodged due to misunderstanding, so he does not have any objection if the accused persons are released from this case. So, it is apparently clear that except altercation nothing had happened between the informant and the accused persons. Hence, there is no iota of evidence in this case to the effect that the accused persons wrongfully restrained the

informant, voluntarily caused hurt to him or uttered slang languages to him or assaulted or used criminal force to him as alleged.

**ORDER**

9. In view of the above discussion, I have no hesitation in holding that the prosecution has miserably failed to bring home the accusations under section 341/294/352/323/34 of the Indian Penal Code against the accused persons. As such, the points for determination are decided in negative against the prosecution and accordingly accused persons Sri Mukunda Chetia and Sri Nabajyoti Gogoi are acquitted of the accusations under section under section 341/294/352/323/34 of the Indian Penal Code. Consequently, the accused persons are set at liberty forthwith. The bail-bond of the accused persons stands cancelled and surety stands discharged.

10. Given under my hand and the seal of this Court on this the 05<sup>th</sup> day of November, 2019.

**(Shri Narayan Kuri)**  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur

Dictated and Corrected by me:

**(Shri Narayan Kuri)**  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur

Transcribed and typed by me:

Debashis Bhuyan, Stenographer

Continued..... (Appendix)

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

**WITNESSES FROM THE PROSECUTION SIDE**

Md. Sahadullah Rahman (PW-1)

**PROSECUTION EXHIBIT**

Ejahaar (Ext-1)

**WITNESSES FROM THE DEFENCE SIDE**

Nil

**DEFENCE EXHIBIT**

Nil

**(Shri Narayan Kuri)**  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur