

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
LAKHIMPUR, NORTH LAKHIMPUR**

GR CASE NO: 2584 of 2017

Under Section 341/294/506 IPC.

State

-Versus-

Md. Atabur Rahman Accused Person

**PRESENT : Sri Jayanta Kumar Saikia, AJS
Judicial Magistrate, First Class
Lakhimpur, North Lakhimpur.**

ADVOCATES APPEARED-

FOR THE PROSECUTION : Sri Debajit Dutta Borah .

FOR THE ACCUSED : Md. Muksed Ali

OFFENCE EXPLAINED ON: 09.01.2019

EVIDENCE RECORDED ON : 13-05-2019

ARGUMENT HEARD ON : 13-05-2019

JUDGMENT DELIVERED ON: 13.05.2019.

JUDGMENT

- 1** The prosecution case is brief is that the informant, Md. Abdul Motin has lodged this case alleging that the accused person, Md. Atabur Rahman made various phone calls to his daughter, Mustt. Wakia

Begum and sent obscene messages to her. Hence, he lodged this case.

- 2 On receipt of the same, the I/C, Bongalmora Outpost vide Bongalmora Outpost GDE no-48 dated 03.09.2017 and forwarded the same to the Officer-in-charge, Bihpuria Police Station for registering a case under proper section of law. The Officer-in-charge, Bihpuria Police Station, on receipt of Ejahar, registered North Lakhimpur P.S. Case No.785/2017, under section 294/309/506 of IPC and endorsed the concerned IO for investigation. After completion of the investigation, the concerned I.O. submitted charge sheet against the accused person, Md. Atabur Rahman under Section 341/294/506 of IPC.
- 3 In due course, on receipt of summon, the accused person appeared before the Court and the copies of relevant documents were furnished to him as per section 207 of CrPC. Having found a prima facie case against the accused person under Section 341/294/506 of IPC, the particulars of offences under section 341/294/506 of IPC are read over and explained to the accused person vide order dated 09.01.2019, to which he pleaded not guilty and claimed to be tried.
- 4 The prosecution, in support of its case, examined only two (02) witnesses. The Learned Assistant Public Prosecutor prayed to close the PW evidence as the principal witnesses i.e, the informant and the victim of the case do not support the prosecution case.
- 5 The statement of the accused person under section 313 of Cr.PC is dispensed with as there are no incriminating materials found against the accused person. Defence side examined no witnesses.
- 6 I have heard the arguments advanced by the Learned counsels for both sides.

7 POINTS FOR DETERMINATION:-

(i) Whether prior to lodging the ejahar and on 28.08.2017, at No-2 Ahmedpur under the jurisdiction of Bihpuria Police Station, wrongfully restrained the victim, Mustt. Wakia Begum and

thereby committed an offence punishable under Section-341 of IPC?

(ii) Whether prior to lodging the ejahar and on the same date at the same place under the jurisdiction of Bihpuria Police station, scolded the victim, Mustt. Wakia Begum in filthy language and thereby committed an offence punishable under Section-294 of IPC?

(iii) Whether, on the same date and on the same time, at the same place under the jurisdiction of North Lakhimpur Police station, committed criminal intimidation by threatening the victim, Mustt. Wakia Begum with intent to cause alarm to her and thereby committed an offence punishable under Section-506 of IPC?

DISCUSSION, DECISION AND REASONS THEREOF

- 8** In the instant case, the prosecution side adduced the evidences of PW-1 (informant) and PW2 (victim), to establish their case but none of the PWs have supported the prosecution story.
- 9** The evidence of **PW1**, Md. Abdul Motin, who is the informant of the case, reveals that the accused person, Md. Atabur Rahman is his co-villager. He deposed in his examination in chief that in the year 2017, he had a family dispute with the accused person and due to misunderstanding, he has lodged this case against the accused person. He further deposed that they have amicably settled their dispute and he does not want to proceed with the case by adducing evidence. In his cross-examination, he deposed that he has no allegation against the accused person. He has no objection, if the accused person gets acquittal in this case.
- 10** The evidence of **PW2**, Mustt. Wakia Begum, who is the victim of the case, reveals that the accused person, Md. Atabur Rahman is her co-villager. She deposed in her examination in chief that in the year 2017, her father has lodged this case against the accused person due to misunderstanding. She further deposed that they have amicably settled their dispute and she does not

want to proceed with the case by adducing evidence. In her cross-examination, she deposed that she has no allegation against the accused person. She has no objection, if the accused person gets acquittal in this case.

11 The Learned Assistant Public Prosecutor prayed to close the PW evidence stating that the principal witness, who are the informant and the victim of the case have not supported the prosecution case. The informant (PW1) and the victim (PW2) deposed in their testimonies that they have no allegation against the accused person as the case was lodged due to misunderstanding. Their testimonies reveal that they do not want to proceed with the case by adducing evidence as they have amicably settled their dispute. The testimonies of the aforesaid witnesses are voluntary and their testimonies reveal that at present, they have no objection, if the accused person gets acquittal in this case. There is nothing in the evidence incriminating the accused person that he has committed an offence under section- Section 341/294/506 of IPC.

12 Situated thus, in my considered opinion, the prosecution side has failed to bring home the guilt of the accused person offence under section 341/294/506 of IPC as the informant and victim of the case did not support the prosecution story.

ORDER

In the light of aforesaid discussions and reasons, it is seen that the prosecution side has failed to prove the guilt of the accused person. Accordingly, the accused person, Md. Atabur Rahman is acquitted of the offence under Section 341/294/506 of IPC and he is set at liberty forthwith.

The bail bonds and surety of the accused person shall remain in force for a period of 6 months from today as per amended CrPC.

**Given under my hand and seal of this court on this 13th day
of May, 2019.**

Sri Jayanta Kumar Saikia
Judicial Magistrate, First Class,
Lakhimpur, North Lakhimpur.

Typed by Steno Gr.III
Debashis Bhuya

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APPENDIX

PROSECUTION EXHIBITS:

NIL

DEFENCE EXHIBITS

NIL

PROSECUTION WITNESSES

PW-1: Md. Abdul Motin (informant)

PW-2: Mustt. Wakia Begum (victim)

DEFENCE WITNESSES

NONE

MATERIAL EXHIBITS

NIL

Sri Jayanta Kumar Saikia
Judicial Magistrate, First Class,
Lakhimpur, North Lakhimpur