

GR CASE NO: 2172 of 2016

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

GR CASE NO: 2172 of 2016

Under section 341/294/506 IPC.

State

-Versus-

Md. Ramjan Ali

Md. Billal HussainAccused Persons

**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. Eunus Ali

OFFENCE EXPLAINED ON: 29.06.2019

EVIDENCE RECORDED ON: 29.06.2019

ARGUMENT HEARD ON: 29.06.2019

JUDGMENT DELIVERED ON: 29-06-2019.

JUDGMENT

- 1.** The prosecution case in brief that on 15.07.2016, the accused persons, namely, Md. Ramjan Ali and Md. Billal Hussain criminally attempted to dispossess the informant, Md. Hasen Ali from his

inherited land by violating the order of the Executive Magistrate in Misc Case No-31 of 2016 regarding that plot of land. Hence, he lodged this case.

2. The Officer-in-charge, Bihpuria Police Station, on receipt of Ejahar registered Bihpuria P.S. Case No. 615/2016, under section 447/427/188/506/34 and endorsed the concerned I.O for investigation. After completion of the investigation, the concerned I.O. submitted charge sheet against the accused persons, Md. Ramjan Ali and Md. Billal Hussain under section 341/294/506 of IPC.
3. In due course, the accused persons appeared before the Court on receipt of summons and the copies of relevant documents were furnished to them as per section 207 of CrPC. Having found a prima facie case against the accused persons under section 341/294/506 of IPC and the particulars of offences under Section 341/294/506 of IPC are read over and explained to them today i.e on 29.06.2019 to which they pleaded not guilty and claimed to be tried.
4. The prosecution, in support of its case, examined only (01) witness. The Learned Asstt. Public Prosecutor prayed to close the PW evidence as the principal witnesses, who is the informant and the victim of the case does not support the prosecution story.
5. The statements of the accused persons under section 313 of Cr.PC are dispensed with as there are no incriminating materials found against the accused persons. 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 on 15.07.2016, at Fatehpur, under the jurisdiction of Bihpuria Police station, the accused persons, in furtherance of their common intention, scolded the informant, namely, Md. Hasen Ali in filthy language and thereby committed an offence punishable under Section-294 of IPC, Read with Section-34 of IPC?

(ii) Whether, on the same date, at the same place, the accused persons, in furtherance of their common intention knowing by an

order, promulgated by the Executive Magistrate in Misc Case No-31 of 2016, lawfully empowered to promulgate such order and thereby committed an offence punishable under Section-188 of IPC, Read with Section-34 of IPC?

(iii) Whether on the same date at the same place, the accused persons, in furtherance of their common intention, committed mischief by cutting the trees owned by the informant, Md. Hasen Ali and thereby committed an offence punishable under Section-427 of IPC, Read with Section-34 of IPC?

(iv) Whether on the same date, at the same place, the accused persons, in furtherance of their common intention, criminally intimidated the informant, Md. Hasen Ali with dire consequences and thereby committed an offence punishable under Section-506 of IPC, Read with Section-34 of IPC?

DISCUSSION, DECISION AND REASONS THEREOF:

- 8.** In the instant case, the prosecution side adduced the evidences of PW-1 (informant) to establish their case but she has not supported the prosecution story.
- 9.** The evidence of **PW1**, namely, Md. Hasen Ali, who is the informant and victim of the case, reveals that the accused person, Md. Ramjan Ali is his elder brother and the accused person, Md. Billal Hussain is his nephew. He stated that he has lodged this case in misunderstanding in the year 2016. They have amicably settled our dispute with the intervention of family well-wishers and village elders. He also says that there is another cross-case lodged against him by the accused persons, which was disposed of by amicable settlement in this case. He does not want to proceed with the case by adducing evidence. He has no allegation against the accused persons. His cross-examination is declined by the defence side.
- 10.** The Learned Assistant Public Prosecutor prayed to close the PW evidence as the principal witness, who is the informant and victim of the victim of the case has not supported the prosecution

case. After going through the testimony of PW1 (informant), it is seen that he has no allegation against the accused persons as the case was lodged due to misunderstanding. His testimony reveals that he does not want to proceed with the case by adducing evidence as they have amicably settled their dispute with the intervention of family well-wishers and villager elders. There is nothing in the evidence incriminating the accused persons that they have committed an offence punishable under section- 341/294/506 of IPC.

- 11.** Situated thus, in my considered opinion the prosecution side has failed to bring home the guilt of the accused persons 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 failed to prove the guilt of the accused persons.

Accordingly, the accused persons, namely, Md. Ramjan Ali and Md. Billal Hussain are acquitted of the offences under Section 341/294/506 of IPC and they are set at liberty forthwith.

The bail bonds of the accused persons and their sureties 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 29th day of June, 2019.

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

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APPENDIX

PROSECUTION EXHIBITS:

NIL

DEFENCE EXHIBITS

NIL

PROSECUTION WITNESSES

PW-1: Md. Hasen Ali (informant)

DEFENCE WITNESSES

NONE

MATERIAL EXHIBITS

NIL

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