

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

**GR CASE NO.248/2014
U/S 341/354/323/427 IPC.**

PRESENT:

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

PARTIES:

STATE OF ASSAM

Vs

HOMEN KATAKI

..... **ACCUSED PERSON**

Appearance:

For the State: MR. JANGKI DOLEY

For the accused person: MR. TORIT DUTTA

Dates of Evidences: 01.10.2015, 30.08.2018,
23.03.2019, 09.07.2019,
25.10.2019

Date of Arguments: 16.11.2019 & 04.12.2019

Date of Judgment: 19.12.2019

JUDGMENT

- 1.** The accused, namely, **Homen Katak**, son of Sri Brojen Katak, R/o village: Bhitor Doloni, Shantipur, Police Station - Bihpuria, in the District of Lakhimpur, here in this case has been put to trial to answer the charges for the offence Punishable under Sections 341/354/323/427 of the Indian Penal Code.
- 2.** The brief facts of the prosecution case is that on 17.02.2014 at 12 noon, while the informant was going to the house of the father of the accused, the accused wrongfully restrained her on her way and tore her clothes and assaulted her as well as her one and half years old baby. Hence, the case, and the same was registered as Bihpuria Police Station Case No.44/2014 under Sections 341/354/325/427 of the Indian Penal Code against Homen Katak named in the ejahar. The Investigating Officer submitted Charge Sheet against the accused, namely, Homen Katak under Sections 341/354/323/427 of the Indian Penal Code.
- 3.** After the appearance of the accused, the copies of the relevant documents were furnished to her. Upon hearing and on perusal of the case record the particulars of offence under sections 341/354/323/427 IPC were read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
- 4.** In support of the case, the prosecution has adduced 6(six) PWs. Defence adduced none. The statement of the accused u/s 313 CrPC is dispensed with due to lack of incriminating materials.

5. After perusing the case record and hearing both sides the following points for determination are framed:

- (i) Whether the accused person, on 17.02.2014 at 12 noon at Bhitardoloni Shantipur, while the informant was going to the house of the father of the accused, wrongfully restrained the informant, and thereby committed an offence under section **341** IPC?
- (ii) Whether the accused person, on 17.02.2014 at 12 noon at Bhitardoloni Shantipur, while the informant was going to the house of the father of the accused, assaulted or used criminal force against the informant with the intent to outrage her modesty by such assault or criminal force and thereby committed an offence punishable under Section **354** of IPC?
- (iii) Whether the accused person, on 17.02.2014 at 12 noon at Bhitardoloni Shantipur, while the informant was going to the house of the father of the accused, voluntarily caused hurt to the informant, and thereby committed the offence under section **323** IPC?
- (iv) Whether the accused person, on 17.02.2014 at 12 noon at Bhitardoloni Shantipur, while the informant was going to the house of the father of the accused, committed mischief by causing wrongful loss to the property of the informant worth more than Rs.50/- and thereby committed an offence punishable under Section **427** of 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 stated in her ejahar that on 17.02.2014 at 12 noon, while the informant was going to the house of the father of the accused, the accused wrongfully restrained her on her way and tore her clothes and assaulted her as well as her one and half years old baby.

The informant in her evidence before the court as PW6 stated that on the day of the incident, there were altercations between her and the accused and that there were only verbal quarrels between them. That the accused neither assaulted her nor outraged her modesty and that out of anger, she lodged the case against the accused.

In cross-examination the PW6 stated that she has no grievances against the accused and if he is acquitted, she has no objection.

The PW1 stated in her evidence that he heard that the accused assaulted the informant.

The PW2 stated in his evidence that he heard that quarrel took place between the accused and the informant and that he did not see any occurrence.

The PW3 stated in her evidence that there was a quarrel between the informant and the accused and she was not present at

the time of the incident and that she did not see the incident.

The PW4 does not know anything about the incident.

The PW5 who is the husband of the informant/victim stated in his evidence that he was not present at the time of the incident and he heard later on that there was an altercation between his wife and the accused. That he does not know the reason of the altercation. He heard that the accused was drunk and scolded the informant and as such, the informant lodged this case against him out of anger.

From the above evidences, it can be known that the informant, i.e., the PW6 herself has denied that the accused has committed any offence. She has specifically mentioned that the accused neither assaulted her nor outraged her modesty and that there were only verbal quarrels between them. The other PWs also did not see any occurrence or the accused attacking the informant. Even the husband of the informant deposed only about verbal altercations between the informant and the accused. Hence, considering the nature of the evidences adduced by the prosecution, it can be held that the prosecution has miserably failed in establishing the guilt of the accused person under Sections 341/354/323/427 of the Indian Penal Code beyond reasonable doubt, thereby making him not guilty under the said Sections.

(Contd....)

ORDER

As this court finds the accused person, namely, **Homen Katak**, not guilty of the offence u/s 341/354/323/427 of IPC, the accused person is acquitted of the charges u/s 341/354/323/427 of IPC.

The accused person is set at liberty forthwith.

The bail bond is 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 19th Day of December, 2019.

(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: SMT. RUKMINI BARUAH
2. PW2: SMT. HEMAPRABHA DAS
3. PW3: SMT. BOBITA KATAKI
4. PW4: SMT. BHARATI BONIA
5. PW5: SRI DHANANJAY BONIA
6. PW6: SMT. POPI BONIA

Defence witnesses

Nil.

Documents exhibited by the prosecution

1. EXT.1: SEIZURE LIST
2. EXT.2: EJA HAR

Documents exhibited by the Defence

Nil.

(SMT. SWEETY BHUYAN)
JUDICIAL MAGISTRATE 1ST CLASS
LAKHIMPUR, NORTH LAKHIMPUR

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(SMT. SWEETY BHUYAN)
JMFC, NORTH LAKHIMPUR

Transcribed & typed by me:

Kumar Gaurav (Stenographer)