

**IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE
(SADAR), NORTH LAKHIMPUR, LAKHIMPUR**

GR CASE NO : 1695 of 2018

U/s - 447/294/341/323/506 of IPC

State

- Versus -

Sri Dhiren Bharali

.....Accused person.

**PRESENT : Smt. Sorbani Bhattacharjee , AJS
Sub Divisional Judicial Magistrate (Sadar)
Lakhimpur, North Lakhimpur.**

ADVOCATES APPEARED-

FOR THE PROSECUTION : Sri Khirod Kr. Kakoti.

FOR THE ACCUSED : Sri Apurba Jyoti Sarmah

EVIDENCE RECORDED ON : 23.05.2019

ARGUMENT HEARD ON : 21.06.2019

JUDGMENT DELIVERED ON : 21.06.2019

JUDGMENT

1. The prosecution story in brief is that on 08.07.2018 at about 4:30 PM, when the informant was returning home from rice mill at Rongpuria then on the road the accused Dhiren Bharali restrained him and abused him using obscene words. He also assaulted the informant with road (iron bar) and tried to kill him. The

neighbouring people came to his rescue and then the accused left the place of occurrence after threatening to kill him.

2. The Officer-in-charge, Laluk police station, on receipt of Ejahar registered Laluk P.S. Case No. 193/2018, U/S 341/294/325/506 of IPC and started investigation. After completion of the investigation, the concerned I.O. submitted charge sheet against the accused person U/S 447/294/341/323/506 of IPC.

3. In due course, 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, the particulars of offences U/S 447/294/341/323/506 of IPC are read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

4. The prosecution, in support of its case, examined the informant's evidence only. As per the submission of learned Assistant Public Prosecutor further evidence of prosecution side is closed. As there is no incriminating evidence against the accused person hence recording of his statement U/S 313 of the Code of Criminal Procedure is dispensed with. Defence side examined no witnesses. I have heard the arguments advanced by the learned counsels for both sides.

5. POINTS FOR DETERMINATION:-

(i) Whether the accused person on 08.07.2018 at about 4:30 PM, criminally trespassed in the courtyard of the informant to abuse him and thereby committed an offence punishable U/S 447 of Indian Penal Code ?

(ii) Whether the accused person on the same day, time and place, used obscene words in or near public place to the

annoyance of others against the informant and thereby committed an offence punishable u/s- 294 of Indian Penal Code ?

(iii) Whether the accused person, on the same day, time and place, wrongfully restrained the informant Sri Konful Borah on the road and thereby committed an offence punishable U/S 341 of Indian Penal Code ?

(iv) Whether the accused person, on the same day, time and place, voluntarily caused hurt to the informant and thereby committed an offence punishable U/S 323 of Indian Penal Code ?

(v) Whether the accused person on the same day, time and place, criminally intimidated the informant by threatening him and thereby committed an offence punishable under section 506 of Indian Penal Code ?

DISCUSSION, DECISION AND REASONS THEREOF:

6. PW-1 Sri Konful Borah in his evidence deposed that he is the informant of this case. He knows the accused who is his neighbour. On the day of incident in the year 2018 in the day time accused had some altercation with him regarding distribution of some grain. Out of anger he lodged this case. He has settled the matter amicably with the accused.

In cross examination he deposed that he has no grievance against accused.

7. In this case prosecution examined only the informant-cum-victim Sri Konful Borah. His evidence reveals that on the day of incident only an altercation took place between him and Hiren Bharali regarding distribution of grain. He lodged this case out of anger and now he has settled the matter amicably with the accused. Prosecution failed to examine any other witnesses in this case. The informant has not supported the prosecution case. His evidence is contradictory to the FIR lodged by him. There is no incriminating evidence against the accused to hold him guilty. Situated thus, I am of the opinion that the ingredients of the

offences u/s 447/294/341/323/506 of IPC have not been proved against the accused person beyond all reasonable doubt by the prosecution and hence the accused person is hold not guilty for the alleged offences.

ORDER

8. Accordingly, the accused person namely, Sri Dhiren Bharali is acquitted of the offences U/S 447/294/341/323/506 of IPC and he is set at liberty forthwith. The bail bond of the accused person and his surety 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 21st day of June, 2019.

Smti Sorbani Bhattacharjee, AJS
Sub Divisional Judicial Magistrate (S)
Lakhimpur, North Lakhimpur

GR 1695 of 2018

APPENDIX

PROSECUTION EXHIBITS:

NIL

DEFENCE EXHIBITS

NIL

PROSECUTION WITNESSES :

(1) PW-1 Sri Konful Borah

DEFENCE WITNESSES

NONE

MATERIAL EXHIBITS

NIL

**Smt. Sorbani Bhattacharjee, AJS
Sub Divisional Judicial Magistrate (S)
Lakhimpur, North Lakhimpur**