

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

GR CASE NO: 791 of 2018

U/s 279/294/352/427/506/500/34 of IPC

State

-Versus-

- 1. Sri Joyjit Gogoi**
- 2. Sri Rupam Lahon and**
- 3. Sri Debabrata @ Debo Gogoi**

.....Accused persons.

**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 Ananda Dutta,
Sri Nabajyoti Saikia**

EVIDENCE RECORDED ON : 06.06.2019

ARGUMENT HEARD ON : 18.06.2019

JUDGMENT DELIVERED ON: 18.06.2019

JUDGMENT

1. The prosecution story in brief is that on 08.04.2018 at about 7:30 PM when the informant and his brother Sri Akash Das were on their way to home and at Bihpuria traffic point while crossing the road, the accused Joijit Gogoi by riding his motorcycle without registration number and accused Rupam Lahon by riding his stunner bike bearing registration No.AS-07-F/9651 in a rash and negligent manner and hit informant and his brother with an intention to kill them due to previous enmity. Somehow they saved themselves and then the accused persons Joyjit Gogoi, Rupam Lahon and Debabrata @ Debo Gogoi started to abuse them using obscene words and assaulted them. Accused Rupam Lahon also torn the T. Shirt of the informant and tried to snatch his mobile phone. He also threatned the informant to kill him and abused him by taking the name of his profession of his Advocacy.

2. The Officer-In-Charge, Bihpuria Police Station, on receipt of ejahar registered a case vide Bihpuria P.S. Case No. 171/2018, u/s 279/304(A)/511/294/325/427/506/500/34 of IPC and started investigation. After completion of the investigation, the concerned I.O. submitted charge sheet against the accused persons namely, Sri Joyjit Gogoi, Sri Rupam Lahon and Sri Debabrata @ Debo Gogoi u/s 279/294/352/427/506/500/34 of IPC.

3. In due course, the accused persons appeared before the Court 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, the particulars of offences u/s 279/294/352/427/506/500/34 of IPC are read over and explained to them to which they pleaded not guilty and claimed to be tried.

4. The prosecution, in support of its case, examined 2 (two) witnesses. As per prayer and submission of learned Assistant Public Prosecutor further evidence of prosecution side was closed.

As there is no incriminating evidence against the accused persons hence recording of their statement u/s 313 of the Code of Criminal Procedure was dispensed. Defence side examined no witnesses. I have heard the arguments advanced by the learned counsels for both sides.

5. POINTS FOR DETERMINATION:-

1. *Whether the accused person namely, Joijit Gogoi, in furtherance of his common intention, with Rupam Lahan on 08.04.2018 at about 7:30 PM, drove the motorcycle without registration number and accused Rupam Lahan by riding his stunner bike bearing registration No.AS-07-F/9651 at Bihpuria traffic point under the jurisdiction of Bihpuria Police Station, in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt to the informant and his brother Sri Akash Das, and thereby committed an offence punishable U/S 279/34 of Indian Penal Code ?*

2. *Whether the accused persons on the same day, time and place, in furtherance of their common intention, used obscene words in or near public place to the annoyance of others against the informant and his brother Sri Akash Das and thereby committed an offence punishable U/S 294/34 of Indian Penal Code ?*

3. *Whether the accused persons, on the same day, time and place, in furtherance of their common intention, used criminal force against the informant and his brother Sri Akash Das without grave and sudden provocation of the informant and thereby committed an offence punishable U/S 352/34 of Indian Penal Code ?*

4. *Whether the accused persons, on the same day, time and place, in furtherance of their common intention, caused mischief by damaging the motorcycle without registration number and*

the another bike (stunner) bearing registration No.AS-07-F/9651 and thereby committed an offence punishable U/S 427/34 of Indian Penal Code ?

5. *Whether the accused persons on the same date, time and place, in furtherance of their common intention, criminally intimidated the informant and his brother Sri Akash Das and thereby committed an offence punishable U/S 506/34 of Indian Penal Code ?*

6. *Whether the accused persons, on the same date, time and place, in furtherance of their common intention, defamed the informant and his brother by making a certain imputation concerning the informant and his brother Sri Akash Das by means of some gestures or sign intending to harm their reputation and thereby committed an offence punishable u/s 500/34 of Indian Penal Code ?*

DISCUSSION, DECISION AND REASONS THEREOF

6. PW-1 Sri Durga Mukhiyar in his evidence deposed that he is the informant of this case. He knows the 3 accused persons. On 8.04.2018 the incident occurred near Bihpuria Traffic Point. On that day in the daytime he along with his brother Akash das were going to cross the Traffic Point and at that time accused persons came there in bike and they hit informant's bike. There was no fault on their part. After the incident an altercation took place between the accused persons and them. Out of anger he lodged this case. He has no grivance against the accused persons.

In the cross-examination he deposed that accused persons are innocent. They have settled the matter amicably between them.

7. PW-2 Sri Akash Das in his evidence deposed that he knows the informant who is his neighbour. He does not know the

accused. On 08.04.2018 in the day time he and informant went to Bihpuria centre and an altercation took place on the road between the accused persons and informant. Out of anger informant lodged this case. He has no grievance against accused persons.

8. In this case prosecution examined altogether two witnesses. PW-1 who is the informant-cum-victim of this case in his evidence inter alia stated that on the day of incident he and his brother Akash Das while crossing the Bihpuria traffic point, then the accused persons came to there in a bike and their bike hit them. There was no fault on the part of the accused persons. An altercation took place after the incident and out of anger he lodged this case. In his cross-examination, he stated that the accused persons are innocent and they have amicably settled the matter between them. PW-2 Sri Akash Das who is another victim of this case supported PW-1 and stated that only an altercation took place on the road between the accused persons and the informant. Out of anger informant lodged this case.

9. From the testimony of PW-1 & 2, it is apparent that none of them have incriminated the accused persons of committing any offences. They have not supported the prosecution case. From their evidence it is revealed that the case was lodged by the informant out of anger after an altercation took place between him and the accused persons. Situated thus, I am of the opinion that the ingredients of the offences u/s 279/294/352/427/506/500/34 of IPC have not been proved against the accused persons beyond all reasonable doubt by the prosecution and hence the accused persons are held not guilty for the alleged offences.

ORDER

10. Accordingly, the accused persons namely, Sri Joyjit Gogoi, Sri Rupam Lahon and Sri Debabrata @ Debo Gogoi are acquitted of the offences u/s 279/294/352/427/506/500/34 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 18th day of June, 2019.

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

GR 791 of 2018

APPENDIX

PROSECUTION EXHIBITS:

Nil

DEFENCE EXHIBITS

NIL

PROSECUTION WITNESSES :

(1) PW-1 Sri Durga Mukhiar

(2) PW-2 Sri Akash Das

DEFENCE WITNESSES

NONE

MATERIAL EXHIBITS

NIL

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