

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, LAKHIMPUR,
NORTH LAKHIMPUR, ASSAM**

Present: Sri Akhtabul Ala, AJS,
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur, Assam

G.R. 2536/2016

Under section 447/294/506 of the Indian Penal Code

State of Assam

-Vs-

Smti. Minati Gogoi

.....Accused

Date of offence explanation : 17.05.2018
Date of recording evidence of PW : 23.12.2020
Statement u/s 313, Cr.P.C recorded on : 05.01.2021
Date of argument : 05.01.2021
Date of judgment : **05.01.2021**

Advocates appeared in the case:-

Mrs. Ajanta Sharma Baruah, Addl. P.P., for the State

Mr. Suren Borah, Advocate, for the accused

J U D G M E N T

1. The prosecution case, in brief, is that on 03.10.2016 one Sri Durlav Gogoi had lodged an ejahar before the Officer-in-charge of Bihpuria Police Station alleging inter alia that on that day at about 6:00 AM the accused Smti. Minati Gogoi had entered the courtyard of his house and had hurled verbal abuses at him and his family members for the reason that his goat entered her compound. Thereafter, the accused had assailed him with a bamboo lathi and threatened him of lodging a false case against him. Hence, the case.

2. The Officer-in-charge of Bihpuria Police Station, on receipt of the ejahar, registered a case vide Bihpuria PS Case No. 723/2016 under

section 447/294/336/323/506 of the Indian Penal Code and got the investigation into the case commenced. The investigating officer, after completing the investigation, submitted charge-sheet under section 447/294/506 of the Indian Penal Code against accused Smti. Minati Gogoi to stand trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offence under section 447/294/506 of the Indian Penal Code was taken as per section 190(1)(b) of the Code of Criminal Procedure. The accused entered his appearance before the Court after receiving the summons. Copies were furnished to the accused as per provision contained in section 207 of the Code of Criminal Procedure. The particulars of the offence under section 447/294/506 of the Indian Penal Code were explained to the accused to which she pleaded not guilty and claimed to be tried.

POINTS FOR DETERMINATION :

4. The points which are required to be determined for a just decision of this case are as follows:

(a) Whether the accused had criminally trespassed into the premises of the informant ?

(b) Whether the accused had hurled verbal abuses with filthy language to the informant in public to cause annoyance to him ?

(c) Whether the accused had threatened the informant ?

5. During the trial the prosecution side examined only one witness viz. Sri Durlav Gogoi as PW-1. The prosecution had exhibited the ejahar as Ext-1 and the signature of the informant therein as Ext-1(1).

6. After the closure of the prosecution evidence, the statement under section 313 of the Code of Criminal Procedure was recorded. The defence plea is of total denial and the defence side declined to adduce evidence in defence.

7. Both the sides advanced their respective argument in this case.

DISCUSSION, DECISION AND REASONS THEREOF:

8. Now in order to decide the aforesaid points of determination let us go through the evidence of PW-1.

9. PW-1 Sri Durlav Gogoi, the informant, in his evidence testified that the accused Smti. Minati Gogoi is his next door neighbour and the incident occurred about 4/5 years back, at about 9:00 AM near the boundary of his house. There was a verbal altercation between him and the accused over the matter of his goat entering in her premises and later she out of a misunderstanding had lodged an ejarah against the accused.

10. PW-1 in his cross-examination stated that he has got no objection if the accused in this case is acquitted since all that had happened between them was mere a verbal altercation and nothing else and this case arose only out of a misunderstanding.

11. So from the evidence of PW-1 it transpires that in fact there was only a mere verbal altercation that had taken place between the informant and the accused and this case was in fact filed only out of a misunderstanding.

12. So no such offence as that of the accused criminally trespassing into the premises of the informant or that of the accused hurling verbal abuses at the informant with filthy language in public to cause annoyance to him or that of the accused threatening the informant in fact took place.

13. Hence in the given position no offence is made out against the accused and consequently all the aforesaid points of determination are held in negative.

14. The prosecution as such has failed to prove the case against the accused under section 447/294/506 of the Indian Penal Code and as such she is acquitted from the said offence and is set at liberty.

Bail bonds are extended to for the further 6(six) months from today.

The judgment is delivered and operative part of the same is pronounced in the open court on this 5th day of January, 2021.

(Shri Akhtabul Ala)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Dictated & corrected by me-

(Shri Akhtabul Ala)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Transcribed & typed by-
Sri Narayan Chetri, Stenographer

Contd. Appendix

A P P E N D I X

WITNESSES FROM THE PROSECUTION SIDE

Sri Durlav Gogoi (PW-1)

PROSECUTION EXHIBIT

Ejahaar (Ext-1)

Signature of the informant [Ext-1(1)]

WITNESSES FROM THE DEFENCE SIDE

Nil

DEFENCE EXHIBIT

Nil

(Shri Akhtabul Ala)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur