

**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. 989/2020

Under section 448/323/506/34 of the Indian Penal Code

State of Assam

-Vs-

**(1) Sri Dilip Basfor
(2) Sri Pradip Basfor
(3) Sri Naresh Basfor**

.....Accused

persons

Date of offence explanation : 28.01.2021
Date of recording evidence of PWs : 28.01.2021
Statement u/s 313, Cr.P.C recorded on : 28.01.2021
Date of argument : 28.01.2021
Date of judgment : **28.01.2021**

Advocates appeared in the case:-

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

Mrs. Minakhi Dutta Gohain Boruah, Advocate, for the accused persons

J U D G M E N T

1. The prosecution case, comes into wheel on lodging an ejahar filed by the informant Sri Azad Singh on 29.05.2020, alleging that since 01.05.2020 he is working as Const/RPF/NLP on 11.03.2018 and he is under home quarantine at his allotted Railway Quarter No- 39/D located at North Lakhimpur Railway Station. A Covid-19 home quarantine notice was also pasted by the District Medical Authority in front of his Quarter. On 20.05.2020, at about 2:00 PM one neighbour namely Sri Dilip Basfore entered in his Quarter in intoxicated mood and

demanded money from him. But he denied to pay money to him. As a result, the above-named person become angry and started physically assaulting him inside his Quarter. Having no alternative, he fled away from his Quarter. He further alleged that the person along with his brother, namely, Sri Pradip Basfore and one of his younger brother and his father, namely Sri Naresh Basfore chased him to the Station Tinali of North Lakhimpur. Finally he was caught by them at North Lakhimpur Station Tinali and they again physically assaulted him by cricket wicket stick, due to which, he sustained severe injury. The whole incident was witnessed by the other person who were present at the aforesaid Tinali at the time of assault. He was in quarantine since 28.05.2020. Sri Dilip Basfore regularly threatened him to cut after 20.05.2020. Hence, the case.

2. The Officer-in-charge of North Lakhimpur Police Station, on receipt of the ejahar, registered a case vide North Lakhimpur P.S Case No. 408/2020 under section 448/325/34 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 448/323/506/34 of the Indian Penal Code against accused persons, Sri Dilip Basfore, Sri Pradip Basfore and Sri Naresh Basfore to stand trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offence under section 448/323/506/34 of the Indian Penal Code was taken as per section 190(1)(b) of the Code of Criminal Procedure. The accused persons entered their appearance before the Court after receiving the summons. Copies were furnished to the accused persons as per provision contained in section 207 of the Code of Criminal Procedure. The particulars of the offence under section 448/323/506/34 of the Indian Penal Code were explained to the accused persons to which they 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 persons, in furtherance of their common intention had trespassed into the Quarter of the informant situated at North Lakhimpur Railway station while he was under home quarantine there since 01.05.2020 ?

(b) Whether the accused persons, in furtherance of their common intention, had hurled verbal abuses with filthy language to the informant in public to cause annoyance to him??

(c) Whether the accused persons, in furtherance of their common intention, had criminally intimidated the informant?

5. During the trial the prosecution side examined only one witness viz. Sri Azad Singh as PW-1 (informant-cum-victim). 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 statements under section 313 of the Code of Criminal Procedure were 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 Azad Singh, the informant-cum-victim, in his evidence deposed that the incident occurred on 20th May 2020 at about 2:00 PM. He at that time was at home quarantine since he returned from Delhi. The accused persons at that time objected to his staying there saying that he might spread corona in that area. The accused persons as such had a verbal altercation with him over that matter and later he had lodged an ejahar against the accused persons. There was a push and thrust also between them. He himself fell down getting tripped over something for which he sustained a little bit of injury in his body. Later, he had lodged an ejahar reporting the incident. Ext-1 is the ejahar and Ext-1(1) is his signature therein.

10. PW-1 in his cross-examination stated that the accused persons did not trespass into his house nor has physically assaulted him and all that had happened between them was a mere verbal and nothing else.

11. So from the evidence of PW-1 it transpires that the only thing that had happened between the informant and the accused persons was a mere verbal altercation and nothing else.

12. So no such offence as that of the accused persons trespassing into the Quarter of the informant or hurling verbal abuses to him with filthy language in public to cause annoyance to him or that of the accused persons criminally intimidating the informant is made out.

13. Hence in the given position no offence is made out against the accused persons 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 448/323/506/34 of the Indian Penal Code and as such they are acquitted from the said offences and 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 28th 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 Debashis Bhuyan, Stenographer

Contd.. Appendix

A P P E N D I X

WITNESSES FROM THE PROSECUTION SIDE

Sri Azad Singh (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