

**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. 843/2018 (PRC No. 651/2018)

Under section 493 of the Indian Penal Code

State of Assam

-Vs-

Sri Brojen Saikia

..... Accused

Date of framing charge : 04.01.2021
Date of recording evidence : 20.01.2021
Date of examination u/s 313, Cr.P.C. : 20.01.2021
Date of argument : 20.01.2021
Date of judgment : **20.01.2021**

Advocates appeared in the case:-

Mr. Prasanta Dutta, Addl. P.P., for the State

Mr. Dambaru Bhuyan, Advocate, for the accused

J U D G M E N T

1. The brief history of the prosecution case is that one Smti. Minakshi Saikia had lodged an ejahar before the Officer-in-charge of Jengraimukh Police Station on 27.03.2018 alleging inter alia that after the death of her first husband Ajit Saikia the accused Sri Brojen Saikia had enticed her to elope with him and thereafter taking her to Badhakara Baligaon at Lakhimpur he deserted her leaving in the house to stay. Hence, the case.

2. The said ejahar was sent to the Officer-in-charge of Boginadi Police Station where a case was registered vide Boginadi P.S Case No.

68/2018 under section 493/420 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 493/420 of the Indian Penal Code against the accused Sri Brojen Saikia to stand trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offence under section 493/420 of the Indian Penal Code was taken as per section 190(1)(b) of the Code of Criminal Procedure. Necessary copies were furnished to the accused as per section 207 of the Code of Criminal Procedure after his appearance before the Court. After considering the materials on record and hearing both the sides, charge under section 493 of the Indian Penal Code was only framed against the accused and the charge under section 420 of the Indian Penal Code was dropped since no material was found to exist under the said section. The charge was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

POINT FOR DETERMINATION:

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

(a) Whether the accused by deceive make the informant who was not lawfully married to him to believe that she was lawfully married to him and had cohabited with her in that believe ?

5. During the trial, the prosecution examined only two witnesses viz. Smti. Minakshi Saikia as PW-1 and Sri Gulab Chandra Borah as PW-2. 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 arguments in this case.

DISCUSSION, DECISION AND REASONS THEREOF:

8. To decide the aforesaid point of determination let us have a look at the evidence on record.

9. Now PW-1 Smti. Minakshi Saikia the informant and victim of this case in her evidence testified that the accused was her neighbour and that she in fact after the death of her husband Ajit Saikia one day had gone with the accused Sri Brojen Saikia to visit Lakhimpur. There the villagers of Badhakara village had caught them and forced her to lodge an ejahar against the accused and accordingly she lodged the ejahar. But she in fact had no grievance against the accused as he in fact had not married her nor had promised to marry her.

10. PW-1 in her cross-examination had categorically stated that she has no objection if the accused is acquitted as he has committed no offence.

11. PW-2 Sri Gulab Chandra Borah the father of the informant similarly deposed that the accused in fact was the friend of the informant and she after the death of her husband one day in the year 2018 had gone with him to Lakhimpur just to pay a visit and there some villagers had caught them and pressurized his said daughter to lodge an ejahar against the accused. He also stated that the accused never married his daughter nor had ever promised to marry her and as such he has no objection if the accused is acquitted as he had done no offence.

12. So from the evidence of PW-1 and PW-2 it can be seen that they have totally disowned the prosecution case and has in fact absolved the accused. It is clearly transpired from their evidence that the accused was in fact the friend of the informant and they only went for a trip to Lakhimpur from Majuli and some villagers had met them and forced the informant to lodge this ejarah against the accused.

13. There is no such element of the accused causing deceive to the informant making her to believe that she is lawfully married to him and made her to cohabit with him in that believe.

14. So no offence is made out against the accused and consequently the aforesaid point of determination is held in negative.

15. The prosecution has failed to prove the case against the accused under section 493 of the Indian Penal Code and as such he is acquitted from the said offence 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 20th day of January, 2021.

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

Dictated and Corrected by me:

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

Transcribed and typed by me:
Narayan Chetri, Stenographer

Continued (Appendix)

A P P E N D I X

WITNESSES FROM THE PROSECUTION SIDE

Smti. Minakshi Saikia (PW-1)

Sri Gulab Chandra Saikia (PW-2)

PROSECUTION EXHIBIT

Ejahaar (Ext-1)

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

WITNESSES AND EXHIBITS FROM THE DEFENCE SIDE

Nil

WITNESSES AND EXHIBITS FROM THE COURT SIDE

Nil

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