

**G.R. 470/2016**

**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. 470/2016**

Under section 448/294/506 of the Indian Penal Code

**State of Assam**

**-Vs-**

**Musstt. Mofija Khatun**

Accused .....

Date of offence explanation : 15.02.2018  
Dates of recording evidence of PWs : 06.01.2020, 23.03.2021  
Statement u/s 313, Cr.P.C recorded on : 23.03.2021  
Date of argument : 23.03.2021  
Date of judgment : **23.03.2021**

**Advocates appeared in the case:-**

Mrs. Ajanta Sharma Baruah, Addl. P.P., for the State  
Mr. Nitul Chandra Borah, Advocate, for the accused

**J U D G M E N T**

1. The brief history of the prosecution case is that one Md. Amir Uddin Sheikh had lodged an ejahar before the Officer-in-charge of Bihpuria Police Station on 02.03.2016 alleging inter alia that he had constructed a house on his own land situated at Morno Gaon. On 01.03.2016 in the evening time the accused Musstt. Mofija Khatun entered into his said land along with her household articles with a view to encroach it. On the following day i.e. 02.03.2016 at about 10:30 AM knowing about the said incident when he went to his said land and told the above named accused to leave his house and vacate his land then

the accused verbally abused her by uttering filthy language to him and also threatened to kill him by showing a 'dao'. Hence, the case.

2. The Officer-in-charge of Bihpuria Police Station, on receipt of the ejahar, registered a case vide Bihpuria P.S Case No. 100/2016 under section 448/188/294/506 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 448/188/294/506 of the Indian Penal Code against accused Musstt. Mofija Khatun to stand trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offence under section 448/188/294/506 of the Indian Penal Code was taken as per section 190(1)(b) of the Code of Criminal Procedure. The accused above named entered her 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 448/294/506 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 house of the informant situated at Mornoi Gaon under Bihpuria Police Station ?

(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 criminally intimidated the informant?

5. During the trial the prosecution side altogether examined 5 (five) witnesses viz. Md. Amir Uddin Sheikh as PW-1, Musstt. Ashiya Khatun as PW-2, Md. Kutubuddin Sheikh as PW-3, Md. Akkash Ali as PW-4 and Md. Ramjan Ali as PW-5. 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 of the accused 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 the PWs.

9. PW-1 Md. Amir Uddin Skeikh, the informant-cum-victim, in his evidence deposed that the incident occurred one night in the year 2016. The accused is his step-mother. He further deposed the accused visited his house situated at Mornoi Gaon and apprehending that the accused might encroach his said land and house he lodged an ejahar against the accused. In his cross-examination he testified that he doesn't have any objection if the accused is acquitted as he lodged this case arising out of a misunderstanding.

10. PW-2 Musstt. Ashiya Khatun deposed in her evidence that the informant is her son and the accused is the fourth wife of her husband. On the day of the occurrence the accused had visited the house of her son Amir Uddin and as such her son thought the accused might encroach his said land and house and in that connection there was verbal altercation between them and subsequently her son lodged an ejahar against the accused. In her cross-examination, she testified that

her son lodged the case against the accused out of a misunderstanding and as such she doesn't have any objection if the accused is acquitted.

11. PW-3 Md. Kutubuddin Sheikh deposed that the informant is his step-brother and the accused is his step-mother. The informant had constructed a house and when the accused visited the said house the informant thought that she will encroach the said land and house and for that he lodged an ejahar. In his cross-examination, he testified that the case was lodged out of a misunderstanding and as such he does not have any objection if the accused is acquitted.

12. PW-4 Md. Akkash Ali and PW-5 Md. Ramjan Ali deposed in their evidence that both the parties are known to them but they know nothing about the occurrence.

13. So from the evidence of PW-1, PW-2 and PW-3 it transpires that the only thing that had happened between the informant and the accused was a mere verbal altercation and nothing else.

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

15. 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.

16. The prosecution as such has failed to prove the case against the accused under section 448/294/506 of the Indian Penal Code and as such she is acquitted from the said offences and set at liberty.

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

Let a copy of this judgement be sent to the District Magistrate,  
Lakhimpur.

**G.R. 470/2016**

The judgment is delivered and operative part of the same is pronounced in the open court on this 23<sup>rd</sup> day of March, 2021.

***-Sd-***

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

Dictated & corrected by me-

***-Sd-***

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

Transcribed & typed by-  
Sri Narayan Chetir, Stenographer

Contd.. Appendix

**A P P E N D I X**

**WITNESSES FROM THE PROSECUTION SIDE**

Md. Amir Uddin Sheikh (PW-1)  
Musstt. AShiya Khatun (PW-2)  
Md. Kutubuddin Sheikh (PW-3)  
Md. Akkash Ali (PW-4)  
Md. Ramjan Ali (PW-5)

**PROSECUTION EXHIBIT**

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

**WITNESSES FROM THE DEFENCE SIDE**

Nil

**DEFENCE EXHIBIT**

Nil

***-Sd-***

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