

**IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE  
AT NORTH LAKHIMPUR**

G.R CASE NO: 1080 OF 2017  
PROSECUTOR: STATE OF ASSAM Vs  
ACCUSED: MD. RAMZAN ALI  
MUSSTT. AMENA KHATOON

DISTRICT: NORTH LAKHIMPUR  
IN THE COURT OF ADDITIONAL CHIEF JUDICIAL  
MAGISTRATE, AT NORTH LAKHIMPUR

GR CASE NO: 1080 / 2017

U/S 447/294/352/354/34 OF I.P.C

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: MD. RAMJAN ALI & ANR.

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P SRI R. DUTTA  
ADVOCATE FOR THE ACCUSED: SMTI H. DAS

CHARGE FRAMED ON : 29.10.2018  
EVIDENCE RECORDED ON : 01.06.19, 24.10.19, 20.02.21  
01.04.2021  
ARGUMENT HEARD ON : 06.04.2021  
JUDGMENT DELIVERED ON : 06.04.2021

**JUDGMENT**

**PROSECUTION'S CASE IN BRIEF**

1. Prosecution's case in brief as it reveals from the FIR is that on 22/04/2017 at about 05:00 P.M, while informant's son Md. Nur Alam was plucking mangoes from a tree inside the house compound of informant, at that time, accused Md. Ramjan Ali and Musstt. Amena Khatoon came there and rebuked informant's said son by using offensive language. The informant then raised objection but the accused persons entered inside the house of informant and assaulted her and also used criminal force upon her. The informant

then lodged an FIR about the occurrence before the Officer-in-charge of North Lakhimpur Police Station.

2. On receipt of F.I.R, the O/C of North Lakhimpur P.S registered a case being numbered as North Lakhimpur P.S Case No. 448/17. After investigation, I.O of the case submitted charge sheet against accused Md. Ramjan Ali and Musstt. Amena Khatoon for the offences punishable under section 447/294/352/354/34 of I.P.C. Copies of relevant documents were furnished to the accused persons u/s 207 CrPC. Considering the relevant documents and hearing both the parties, particulars of offences under section 447/294/352/354/34 of I.P.C are read over and explained to the accused persons to which he pleaded not guilty and stood to face the trial.

3. The prosecution in support of its case examined five witnesses whereas the accused did not examine any witness in support of his defence. The persons were examined u/s 313 of CrPC. Defence case is of denial as it reveals from the statements made by the accused and also the tenor of cross-examination of prosecution witnesses by defence. I have heard the learned counsel for both the parties.

4. Upon hearing and on perusal of record I have framed the following points for determination-

**POINTS FOR DETERMINATION:**

(i) Whether the accused persons on 22/04/2017 at about 05:00 P.M, at Roudang Barpathar under North Lakhimpur P.S, in furtherance of common intention, unlawfully entered inside the house compound of informant Musstt. Nurjahan Begum with the intent to cause hurt to the informant and also to outrage her modesty, and thereby committed an offence punishable u/s 447/34 of IPC?

(ii) Whether the accused persons on 22/04/2017 at about 05:00 P.M, at Roudang Barpathar under North Lakhimpur P.S, in furtherance of common intention, rebuked the informant's son Md. Nur Alam by using obscene words in or near any public place to the annoyance of informant or her said son or others, and thereby committed an offence punishable u/s 294 of IPC?

(iii) Whether the accused persons on 22/04/2017 at about 05:00 P.M, at Roudang Barpathar under North Lakhimpur P.S, in furtherance of common

intention, assaulted or used criminal force upon the informant, otherwise than on grave and sudden provocation, and thereby committed an offence punishable u/s 352/34 of IPC?

(iv) Whether the accused persons on 22/04/2017 at about 05:00 P.M, at Roudang Barpathar under North Lakhimpur P.S, in furtherance of common intention, assaulted or used criminal force upon the informant with the intent to outrage, or knowing it to be likely that they will thereby outrage her modesty, and thereby committed an offence punishable under section 354/34 of I.P.C?

**DISCUSSION OF EVIDENCE, DECISION, AND REASONS THEREOF:**

**POINT NO.1, 2 , 3 & 4:**

5. For the sake of convenience, and as because point no.1, 2, 3&4 are inter-connected, hence they are taken up herein together for discussion & decision.

6. As regards the aforesaid points for determination, informant Musstt. Nur Jahan Begum as PW1 in her evidence in chief has alleged that at the time of occurrence, she then came out of her house and asked her son informed about the occurrence. Her son told her that he was beaten up by the accused. Thereafter, both the accused persons said to her that "Why you have come out, do you want to be beaten". Both the accused persons then dragged her by catching hold of her hairs and then assaulted her and also caused destruction of the bucket which she was holding in her hand. Thereafter, one Sariful Islam, Rahim Ali and Hussain Ali came their and saved her.

7. PW2 Md. Sariful Islam in his evidence in chief has alleged that on 22.04.2017 at 5:00 P.M, while he was in Itanagar, at that time the informant informed him over phone that the accused persons have beaten her.

8. PW3 Md. Hussain Ali and PW4 Md. Rahim Ali in their respective evidence in chief have alleged that in the year 2017, at about 04:00 PM, while they were playing volleyball near the house of the informant, at that time, they heard hue & cry and saw that the accused persons are assaulting the informant. Thereafter, they went there and stopped both the parties. Immediately thereafter, accused Md. Ramjan Ali tried to hit the informant with a bamboo stick but could not do so as they stopped the said accused.

9. Now, upon perusal of the above evidence, I am of the opinion that the same attracts the offences punishable under section 447/352/34 of I.P.C. Hence, it is necessary to find out that whether the aforesaid versions deposed by the prosecution witnesses can be believed to form a conclusive opinion against the accused.

10. In order to find out the credibility of the versions deposed by prosecution witnesses as narrated above, at the very outset, it is seen that the PW1, PW2, PW3 & PW4 in their respective cross-examinations have specifically denied the suggestion of defence that they did not mention the aforesaid allegations in their respective statements before the I/O. However, the I.O/PW-5 ASI Tarun Chetry in his evidence as PW-5 has confirmed that the PW1, PW2, PW3 & PW4 in their respective statements u/s 161 CrPC have not mentioned the aforesaid allegations. In my opinion the aforesaid allegations are the crux of the alleged occurrence, and hence, the same should have been mentioned by PW1, PW12, PW3& PW4 in their very initial statement before I.O/PW5 if the occurrence had actually taken place as alleged. Therefore, failure of PW1, PW2, PW3 & PW4 to mention that aforesaid allegations in their respective statements before I.O/PW-5 is clearly a material contradiction as per section 162 of CrPC which creates serious doubts regarding the credibility of the aforesaid allegations made by them in their respective evidence in chief.

11. In addition to the above, the PW1/informant has alleged that on 22.04.2017, at about 5 00 P.M, while her son Md. Nur Alom was plucking mango from a tree near her house, at that time, the accused persons came their and assaulted her son and also rebuked him verbally. In this respect, perusal of the exhibit-1/F.I.R shows that the informant has nowhere mentioned that the accused persons have assaulted her son. It is simply mentioned by the informant in the FIR that the accused persons have rebuked her son. Hence, it is apparent that the statement of informant in the F.I.R is inconsistent with the statement made in her evidence in chief. Such inconsistency being related to a material allegation, in my opinion, creates doubt as regards credibility of her aforesaid allegation.

12. Moreover, there is no medico-legal evidence on record to show that any injury was detected on the body of informant's said son. Also, it is confirmed by I.O/PW5 in his evidence that the medical report in respect of

medical examination of informant/PW1 shows that no injury was detected on her body. As such, it is clear that there is no medico-legal evidence to support the allegations of assault. In fact, the medical examination report of informant/PW1 creates doubt regarding the credibility of the allegation of assault upon informant.

13. Before parting with the discussion, I deem it fit to mention here that none of the witnesses have specifically stated anything about use of any obscene words by the accused persons, or outraging of modesty of the informant by the accused persons at the time of alleged occurrence.

14. Considering the entire discussion made above, I find that the witnesses examined by prosecution have failed to prove beyond reasonable doubts the accused persons have committed the offences as alleged.

*DECISION: Point no.1, 2,3& 4 are therefore decided in the negative and goes against the prosecution.*

#### **ORDER**

15. In view of the discussion made above and the decision reached in the foregoing point for determination, it is held that the witnesses examined by prosecution have failed to prove beyond reasonable doubts that accused Md. Ramjan Ali and Musstt. Amena Khatoon have committed the offences punishable under section 447/294/352/354/34 of I.P.C as alleged, and as such, the above named accused persons are acquitted of the charges under section 447/294/352/354/34 of I.P.C on benefit of doubt and they be set at liberty forthwith.

The bail bond of the accused persons shall remain in force for another six months from today.

This judgment is given under my hand, and seal of this court on this the 06<sup>th</sup> day of April, 2021.

The case is disposed of on contest.

F.U. Choudhury  
Additional Chief Judicial Magistrate  
North Lakhimpur

**APPENDIX**

(A) **PROSECUTION EXHIBITS**

- Exhibit.1 – F.I.R
- Exhibit.2 – Extract Copy of G.D Entry.
- Exhibit.3 – Sketch Map.
- Exhibit.4 – Charge Sheet.

(B) **DEFENCE EXHIBITS**

Nil

(C) **PROSECUTION WITNESSES**

- P.W. 1 – Musstt. Nurjahan Begum.
- P.W. 2 – Md. Sariful Islam.
- P.W. 3 – Md. Hussain Ali.
- P.W. 4 – Md. Rahim Ali.
- P.W. 5 – ASI Tarun Chetry

(D) **DEFENCE WITNESSES**

Nil

F.U. Choudhury  
Additional Chief Judicial Magistrate  
North Lakhimpur