

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

G.R CASE NO: 2344 OF 2018
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: MD MAFIQL ISLAM AND ANR.

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

GR CASE NO: 2344 / 2018

U/S 448/294/506/34 OF I.P.C

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: MD. MAFIQL ISLAM AND ANR.

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P SRI R. DUTTA
ADVOCATE FOR THE ACCUSED: MD. MOHIDUL ISLAM

OFFENCE EXAPLAINED ON : 22.08.2019
EVIDENCE RECORDED ON : 11.02.2020, 06.01.2021

ARGUMENT HEARD ON : 06.01.2021
JUDGMENT DELIVERED ON : 06.01.2021

JUDGMENT

PROSECUTION'S CASE IN BRIEF:

1. Prosecution's case in brief as it reveals from the FIR is that accused Md. Mafiqul Islam along with some other persons approached informant Mustt. Marjina Begum a few days prior to the occurrence of this case and asked her to file a false rape case against one Md. Nurul Haque and in exchange of filing such false case they will pay her Rupees 15,000/- (rupees fifteen thousand). Subsequently, on 11.09.2018 at about 7.00 PM, accused Md. Mafiqul Islam and

Md. Nur Ali came to the house of informant and pressurized her to file the false case against said Nurul Haque. On being refused by the informant to do so, both the above named accused rebuked the informant by using obscene language and also touched her inappropriately. Accused Md. Nur Ali also tried to commit rape on her. At that time informant's mother-in-law Musstt. Jubeda Khatoon came there and saved the informant. The accused persons then fled away from the place of occurrence. The informant then lodged an FIR about the occurrence before the In-charge of Dolohat police out-post.

2. On receipt of the F.I.R, a case was registered being numbered as Laluk P.S Case No. 289/2018. After investigation, I.O of the case submitted charge sheet against accused persons Md. Mafiqul Islam and Nur Ali for the offences punishable u/s 448/294/506/34 of IPC. 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 punishable u/s 448/294/506/34 of IPC are read over and explained to both the accused persons to which they pleaded not guilty and stood to face the trial.

3. The prosecution in support of its case examined two witnesses, whereas the defence did not examine any witness. Finding no incriminating materials against the accused persons their cross-examination u/s 313 of CrPC was dispensed with. 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-

5. **POINTS FOR DETERMINATION:**

(i) Whether the accused persons in furtherance of their common intention, on 11.09.2018 at about 7.00 PM in the evening committed criminal trespass by entering into the dwelling house of informant, and thereby committed an offence punishable u/s 448/34 of IPC?

(ii) Whether the accused persons in furtherance of their common intention, on 11.09.2018 at about 7.00 PM rebuked the informant by using obscene words in or near any public place to the annoyance of informant, and thereby committed an offence punishable u/s 294/34 of IPC?

(iii) Whether the accused persons in furtherance of their common intention, on 11.09.2018 at about 7.00 PM threatened the informant with injury to her person, with the intent to cause alarm, and thereby committed an offence punishable u/s 506/34 of IPC?

DISCUSSION, DECISION AND REASONS THEREOF:

6. For the sake of convenience and as because point no. 1, 2& 3 are interconnected, hence they are taken up herein together for discussion & decision as follows:

7. As regards the aforesaid points for determination, informant Musstt. Marjina Begum as PW-2, and her mother Musstt. Jubeda Khatoon as PW-1, in their respective evidence-in-chief have stated that on the day of occurrence at about 9.00 PM, the accused persons had an altercation with the informant. At that time, informant's mother/PW-2 was also there and she restrained both the parties from further altercation. Thereafter, the informant lodged an FIR in police station. Exhibit-1 is that FIR in which Exhibit-1(1), Exhibit-1(2) and Exhibit-1(3) are the signatures of informant. After filing of that FIR, aforesaid dispute between both the parties got settled amicably due to which they are now not interested to proceed with this case any further. During their cross-examination, both PW-1 and PW-2 have stated that they have no objection if the accused persons are acquitted from this case.

8. At the time of argument, learned counsel for the defence submitted that the prosecution has failed to prove its case as alleged and hence the accused are liable to be acquitted from this case.

9. On perusal of the evidence deposed by PW-1 and PW-2 as narrated above, it is seen that at the time of occurrence there took place only an altercation between the informant and the accused persons. There is nothing in the evidence on record to show that the accused persons have uttered any obscene words or threatened the informant or entered inside the dwelling house of informant with the intention to commit any offence, or to intimidate, insult or annoy the informant. Under such circumstances, it is crystal clear that there is no incriminating material against the accused persons in the evidence deposed by prosecution witnesses. Hence, I find that the witnesses examined

by prosecution have failed to prove that the accused persons have committed the offences as alleged in the points for determination No. 1, 2 and 3 as mentioned above.

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

ORDER

10. In view of the discussions made above and the decisions reached in the foregoing points for determination, it is held that the witnesses examined by prosecution have failed to prove that accused persons Md. Mafiqul Islam and Md. Nur Ali have committed the offences punishable under section 448/294/506/34 of IPC as alleged, and as such, the said two accused persons are acquitted of the charges under section 448/294/506/34 of IPC 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 6th day of January, 2021.

The case is disposed of on contest.

(F. U Choudhury)
Additional Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

APPENDIX**PROSECUTION EXHIBITS:**

Exhibit.1 – FIR

PROSECUTION WITNESSES:

1. PW-1 – Mustt. Jarina Begum
2. PW-2 – Mustt. Jubeda Khatoon Begum

DEFENCE EXHIBIT:

NIL

DEFENCE WITNESSES:

NIL

(F. U Choudhury)
Additional Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur