

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

G.R CASE NO: 1554 OF 2017  
PROSECUTOR: STATE OF ASSAM Vs  
ACCUSED: SRI RATUL KALITA

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

GR CASE NO: 1554 / 2017

U/S 341/294/352/427/34 OF I.P.C

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: SRI RATUL KALITA

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P SRI R. DUTTA  
ADVOCATE FOR THE ACCUSED:MR. G. DUTTA

OFFENCE EXPLAINED ON : 01/02/2020  
EVIDENCE RECORDED ON : 04/03/2021

ARGUMENT HEARD ON : 04/03/2021  
JUDGMENT DELIVERED ON : 04/03/2021

**JUDGMENT**

**PROSECUTION'S CASE IN BRIEF:**

1. Prosecution's case in brief as it reveals from the FIR is that on 01.06.2017 at about 9.00 PM, while informant Sri Jayanta Phukan was coming back to his home from Bihpuria, at that time, the accused persons named in the FIR rebuked the informant by using obscene words and thereafter obstructed the informant and also assaulted him physically. The accused persons have also

caused damage to the bicycle belonging to informant. The informant thereafter lodged an FIR about the occurrence before the OC of Bodotighat police station.

2. On receipt of the F.I.R, a case was registered being numbered as Bodotighat P.S Case No. 05/2017. After investigation, I.O of the case submitted charge sheet against accused persons Sri Ratul Kalita @ Hahiram and Sri Babul Kalita for the offences punishable u/s 341/294/352/427/34 of IPC. After submission of the charge-sheet, summons was issued to both the accused but it was revealed that accused Babul Kalita @ Dipak Kalita had expired. Hence, on the basis of death report submitted by police, this case was filed against the above named accused. Copies of relevant documents were then furnished to accused Sri Ratul Kalita u/s 207 CrPC. Considering the relevant documents and hearing both the parties, particulars of offences punishable u/s 341/294/352/427/34 of IPC are read over and explained to the accused to which he pleaded not guilty and stood to face the trial.

3. The prosecution in support of its case examined one witness, whereas the defence did not examined any witness. Finding no incriminating materials against the accused person, his 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 accused Sri Ratul Kalita at about 9.00 PM, in furtherance of his common intention with deceased co-accused Babul Kalita, voluntarily obstructed the informant so as to prevent him from proceeding in any direction in which he had a right to proceed, and thereby committed an offence punishable u/s 341/34 of IPC?

(ii) Whether accused Sri Ratul Kalita at about 9.00 PM, in furtherance of his common intention with deceased co-accused Babul Kalita, rebuked the informant by using obscene words in or near any public place to the annoyance of informant or others, and thereby committed an offence punishable u/s 294/34 of IPC?

(iii) Whether accused Sri Ratul Kalita at about 9.00 PM, in furtherance of his common intention with deceased co-accused Babul Kalita, 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 accused Sri Ratul Kalita at about 9.00 PM, in furtherance of his common intention with deceased co-accused Babul Kalita, with the intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the informant, caused destruction of the bicycle belonging to informant, and thereby committed an offence punishable u/s 427/34 of IPC?

**DISCUSSION, DECISION AND THEREOF:**

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

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

7. As regards the aforesaid points for determination, informant Sri Jayanta Phukan as PW-1 in his evidence-in-chief has stated that on a day in the year 2017 at about 7.00 PM, he had an altercation with the accused due to which he lodged Ext-1 FIR in police station. After lodging of that FIR, the aforesaid dispute between both the parties got settled amicably due to which he is not willing to proceed with this case. During his cross-examination, PW-1 has stated that he has no objection if the accused is acquitted from this case.

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

9. On perusal of the evidence deposited by PW-1 as narrated above, it is seen that at the time of occurrence there took place only an altercation between the accused and informant. There is nothing in the evidence of PW-1 which can show that the accused had obstructed, or rebuked the informant by using obscene words, or assaulted or used criminal force upon the informant. The PW-1 has also not stated anything about any damage caused to his property by the accused. Hence, it is clear that the PW-1 examined by

prosecution has not at all supported the allegations made in the FIR and also the charges brought against the accused as quoted in the aforesaid points for determination. As such, it is held that the witnesses examined by prosecution have failed to prove that the accused has committed the offences as alleged.

*DECISION: Point no.1, 2, 3 & 4 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 witness examined by prosecution have failed to prove that accused Sri Ratul Kalita has committed the offences under section 341/294/352/427/34 of IPC as alleged, and as such, the said accused is acquitted of the charges under section 341/294/352/427/34 of IPC and he 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 04<sup>th</sup> day of March, 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 – Sri Jayanta Phukan

**DEFENCE EXHIBITS:**

NIL

**DEFENCE WITNESSES:**

NIL

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