

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

G.R CASE NO: 213 OF 2017
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: MD. NURUL ISLAM

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

GR CASE NO: 213 / 2017

U/S 406/294/506 OF I.P.C

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: MD. NURUL ISLAM

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P SRI R. DUTTA
ADVOCATE FOR THE ACCUSED: MRS T. HAZARIKA

CHARGE FRAMED ON : 11/10/2019
EVIDENCE RECORDED ON : 08/03/2021

ARGUMENT HEARD ON : 08/03/2021
JUDGMENT DELIVERED ON : 08/03/2021

JUDGMENT

PROSECUTION'S CASE IN BRIEF:

1. Prosecution's case in brief as it reveals from the FIR is that on 02.11.2010 accused Md. Nurul Islam borrowed Rs. 20,000/- (rupees twenty thousand) from the informant by executing a hand note. Thereafter, the accused failed to repay the aforesaid amount to the informant inspite of repeated demand. On 20.01.2017, when the informant demanded the

aforesaid money, at that time the accused rebuked the informant by using obscene words and also threatened to kill the informant and even refused to repay the aforesaid amount. The informant thereafter lodged a complaint about the occurrence before the learned Executive Magistrate, Lakhimpur, North Lakhimpur, who forwarded the same to the O/C of North Lakhimpur for taking necessary action.

2. On receipt of the F.I.R, a case was registered being numbered as North Lakhimpur P.S Case No. 83/2017. After investigation, I.O of the case submitted charge sheet against accused Md. Nurul Islam for the offences punishable u/s 406/294/506 of IPC. Copies of relevant documents were furnished to the accused u/s 207 CrPC. Considering the relevant documents and hearing both the parties, charges were framed against the accused for the offences punishable u/s 406/294/506 of IPC. The charges were then 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 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 on 20.01.2017 at Saboti area, rebuked informant Md. Mukibur Rahman 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 of IPC?

(ii) Whether the accused on 20.01.2017 at Saboti area, threatened the informant with injury to his person, with the intent to cause alarm, and thereby committed an offence punishable u/s 506 of IPC?

(iii) Whether the accused on 02.11.2010, being entrusted with Rs. 20,000/- (rupees twenty thousand) as loan, or dominion over that amount, by the informant, dishonestly used or disposed of that amount in violation of any

legal contract made touching the discharge of such trust, and thereby committed an offence punishable u/s 406 of IPC?

DISCUSSION, DECISION AND REASONS THEREOF:

POINT NO. 1, 2 AND 3:

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 Md. Mukibur Rahman as PW-1 in his evidence-in-chief has stated that at the time of occurrence he had an altercation with the accused with respect to some monetary transaction due to which he lodged a case against the accused in police station. Exhibit-1 is that FIR, in which Exhibit-1(1) is his signature. After lodging of that FIR, the aforesaid dispute between him and the accused got settled amicably due to which he is not interested to proceed with this case any further. During his cross-examination, PW-1 has stated that he do not have any 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 deposed by PW-1 as narrated above, it is seen that at the time of occurrence he allegedly had an altercation with the accused with respect to some monetary transaction. The PW-1/informant has not stated anything about taking of any loan or subsequent cheating by the accused. PW-1 has also not stated anything about use of obscene word, or any threat being given by the accused. Hence, it is clear that the PW-1/informant examined by prosecution has not supported the charges brought against the accused. The PW-1 has not at all deposed any incriminating material against the accused. As such, I find that the witness examined by prosecution has failed to prove that the accused has committed the offences as alleged in the FIR and as quoted in the aforesaid points for determination.

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 witness examined by prosecution have failed to prove that accused Md. Nurul Islam has committed the offence punishable under section 406/294/506 of IPC as alleged, and as such, the said accused is acquitted of the charges under section 406/294/506 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 8th 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 – Md. Mukibur Rahman

DEFENCE EXHIBITS:

NIL

DEFENCE WITNESSES:

NIL

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