

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

G.R CASE NO: 29 OF 2019
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: SRI DULA MANDAL MALLAH

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

GR CASE NO: 29 / 2019

U/S 294/353/506 OF I.P.C

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: SRI DULA MANDAL MALLAH

PRESENT: MR. F.U. CHOUDHURY, AJS

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

OFFENCE EXPLAINED ON : 16.12.2019
EVIDENCE RECORDED ON : 19.03.2021

ARGUMENT HEARD ON : 19.03.2021
JUDGMENT DELIVERED ON : 19.03.2021

JUDGMENT

PROSECUTION'S CASE IN BRIEF:

1. Prosecution's case in brief as it reveals from the FIR is that on 02.01.2019 at about 5.40 PM, while informant Dr. Abhilash Mahanti was performing his duty as a Medical Officer in Bihpuria CHC, at that time, one patient came to the informant for treatment and accordingly the informant provided treatment to the said patient and also referred the patient to North Lakhimpur Civil Hospital, Lakhimpur. However, accused Sri Dula Mandal

suddenly entered inside the chamber of informant and tried to beat the informant. In the meantime, one fourth grade staff came there and saved the informant. The accused then left the place after threatening the informant. The informant subsequently lodged an FIR about the occurrence before the O/C of Bihpuria police station.

2. On receipt of the F.I.R, a case was registered being numbered as Bihpuria P.S Case No. 12/2019. After investigation, I.O of the case submitted charge sheet against accused Dula Mandal Mallah for the offences punishable u/s 294/353/500/506 of IPC. Copies of relevant documents were furnished to the accused u/s 207 CrPC. Considering the relevant documents and hearing both the parties, particulars of offences punishable u/s 294/353/506 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, his cross-examination u/s 313 of CrPC is 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 02.01.2019 at about 5.40 PM, inside Bihpuria CHC, rebuked the informant by using obscene language, and thereby committed an offence punishable u/s 294 of IPC?

(ii) Whether the accused on 02.01.2019 at about 5.40 PM, inside Bihpuria CHC, assaulted or used criminal force to the informant being public servant in the execution of his duty as such public servant, or with the intent to prevent or deter the informant from discharging his duty as such public servant, and thereby committed an offence punishable u/s 353 of IPC?

(iii) Whether the accused on 02.01.2019 at about 5.40 PM, inside Bihpuria CHC, threatened the informant with injury to his person or reputation with the intent to alarm, and thereby committed an offence punishable u/s 506 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 Dr. Abhilash Mahanti as PW-1 in his evidence-in-chief has stated that on 02.01.2019 in the evening hours, while he was performing duty as doctor at Bihpuria CHC, at that time, he had an altercation with the accused with respect to the medical treatment of another person. Thereafter, he lodged an FIR 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 willing to proceed with this case any further. 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 deposed by PW-1 as narrated above, it is seen that at the time of occurrence, the informant allegedly had an altercation with the accused with respect to treatment of another patient. There is nothing in the evidence of PW-1 which can show that the accused uttered any obscene word in or near any public place, or that the accused threatened the informant, or that the accused assaulted or used criminal force upon the informant. As such, it is clear that the PW-1 examined by prosecution has not deposed any incriminating material against the accused. Therefore, it is clear 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 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 has failed to prove that accused Sri Dula Mandal Mallah has committed the offences under section 294/353/506 of IPC as alleged, and as such, the said accused is acquitted of the charges under section 294/353/506 of IPC and they be set at liberty forthwith.

The bail bond of the accused 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 19th 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 – Dr. Abhilash Mahanti

DEFENCE WITNESSES:

NIL

DEFENCE EXHIBITS:

NIL

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