

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS****North Lakhimpur, Lakhimpur****PRESENT: Ms. Sparsita Garg, M.A, LL.M, AJS**

Judicial Magistrate First Class,

North Lakhimpur, Lakhimpur

**G.R. Case No. 325/2015****State*****Versus*****Sri Ganga Sagar Sahu****(Under sections 323/354 of I.P.C)**

Charge framed on:	27.03.2017
Evidence recorded on:	21.10.2017, 11.06.2018, 03.12.2018, 02.02.2019, 05.11.2020
Statement recorded on:	18.03.2021
Arguments heard on:	31.03.2021
Judgment delivered on:	12.04.2021
Advocate for the Prosecution:	Mr. Jangki Doley
Advocate for the Accused person:	Mr. Gopalji Sahu

**J U D G E M E N T**

1. Accused stood for trial for commission of offence u/s 323/354 IPC.
2. The case of the prosecution in brief is that on 16.02.2015 at about 08.00 a.m., when the husband of the informant went out to his workplace, finding alone the accused abused the informant and gave obscene signals to her. Thereafter, the accused grabbed her hair and scuffled with her. The accused tore apart her clothes and tried to touch her private parts. As the

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daughter of the informant Lakhi Das came forward to intervene, the accused assaulted her with a stick (lathi) and threatened to kill her. Hence this case.

3. On receipt of the ejahar, Incharge of Harmoti outpost forwarded the ejahar to Laluk Police Station and the officer-in-charge of Laluk Police Station registered the case as Laluk Police Station Case No.41/2015 u/s 294/354/427/325 of I.P.C. Thereafter I/O has launched the investigation of this case and after completion of investigation, I/O has finally submitted charge sheet u/s 323/354 IPC against the accused person.
4. Thereafter, cognizance has been taken and summon have been issued to the accused person. On appearance of accused person, necessary documents required u/s 207 Cr. P.C have been furnished to him. On perusal of the materials on record formal charges u/s 323/354 of the Indian Penal Code is read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
5. Prosecution, in support of its case has examined only eight (8) witnesses.
6. Accused is examined under section 313 of the Code of Criminal Procedure wherein he denied the allegations brought against him. Accused denied adducing evidence in defence.
7. I have heard the arguments advanced by the learned counsel for the accused person and Learned A.P.P. Perused the materials available in the case record. Upon hearing both the parties and on perusal of the record, following points for determination are formulated for proper adjudication of this case.

**POINTS FOR DETERMINATION:**

**Point No 1:** Whether the accused on 16.02.2015 at about 8:00 a.m. at No.1 Bogoli, Baligaon, voluntarily caused hurt to the informant Smt. Madhabi Das and Smt. Lakhi Das and thereby

committed an offence punishable under section 323 of I.P.C?

**Point No 2:** Whether the accused on the same date, time and place assaulted and used criminal force against the informant Smt. Madhabi Das with intent to outrage her modesty, by such criminal force and thereby committed an offence punishable under section 354 of I.P.C?

**DISCUSSIONS, DECISIONS AND REASONS THERE OF:**

8. Now let me try to decide the above points on the basis of evidences on record. In order to make a clear and convenient discussion, I deem it fit to reproduce the relevant testimonies of witness. **P.W-1 Madhabi Das** is the informant of this case and in her evidence she stated that on the date of occurrence while she was working in her house the accused came near the courtyard and started to hurl obscene words by saying "**randi, madarchod**" etc. At that time her daughter Lakhi Das was also with her. As P.W-1 went out to ask the reason for scolding her, accused grabbed her hair and assaulted her and also tore apart her clothes and touched her breast. When her daughter tried to intervene the accused assaulted her. For this incident she lodged this ejahar.
9. **P.W-2 Moloya Boruah** stated that on the date of occurrence she saw the accused pushing away the informant with a stick (lathi) and she does not know what happened thereafter.
10. **P.W-3 Lakhi Das** is the also a victim of this alleged incident and she stated that on the date of occurrence while she along with the informant was proceeding towards her school, the cows belonging to the accused were tied with ropes which were lying on the middle of the road. As her mother/P.W-1 tried to place those ropes by the side of the road making her way the accused suddenly came and assaulted her mother and tore her blouse. When she tried to intervene the accused assaulted her.

- 11. P.W-4 Dr. Sunadhar Kunwar** is the medical officer of this case. In his evidence he stated that on 16.02.2015 he examined the informant Madhobi Das and Lakhi Das and on examination of the informant/ P.W-1 he found site of injury and pain in hip joint. Again he found swelling and pain on back side of the neck of victim/P.W-3 Lakhi Das. The injury was caused with blunt weapon and simple in nature. The medical officer proved the medical report marked as Exhibit 2 and Exhibit 3.
- 12. P.W-5 Sumi Bairagi** is the neighbour of the informant and in her evidence she stated that on the date occurrence at about 08:30 a.m., to 09:00 a.m., while she was taking her son to the school she saw quarrel taking place between the accused and the informant. The accused was holding a stick in his hand.
- 13. P.W-6 Pratap Neog** is the neighbour of the informant and in his evidence he stated that on the date of occurrence he saw the accused assaulting the informant and the informant later on came to his house and disclosed about the assault on her. Thereafter he advised her to lodge an ejahar.
- 14. P.W-7 Sangita Tapna** is the neighbour of the informant and in her evidence she stated that on the date of occurrence she saw the accused assaulting the informant in the paddy field. She did not see any injuries on the informant.
- 15. P.W-8 Umesh Bora** is the investigating officer of this case. He described the steps taken by him during investigation. During his investigating he visited the place of occurrence, examined the witnesses and thereafter he submitted chargesheet against the accused u/s 323/354 IPC. The investigation officer also proved the sketch map marked as 4 and chargesheet marked as exhibit 5.
- 16.** The accused is facing trial for commission of offence u/s 323/354 IPC. In order to constitute an offence u/s 354 IPC the prosecution is required to prove that the accused used criminal

force and does any act in order the outrage the modesty of the victim. According to P.W-1 the accused tore her clothes and touched her breast. The daughter of P.W-1 who was examined as P.W-3 (who is also a victim of the alleged incident) stated that the accused tore apart her mother's clothes (P.W-1) but she remained silent that the accused touched the private part of her mother. The other witnesses remained silent regarding tearing of clothes of the informant/P.W-1. The investigating officer also did not seize any torn clothes of the informant. The informant and her daughter are highly interested witness, therefore their evidence cannot be accepted without corroboration from other witnesses. Therefore, it is highly doubtful that the accused had torn the clothes of P.W-1/informant/victim and touched her private parts. Thus, I find that the prosecution has failed to prove the ingredients of Section 354 IPC. Hence, the accused is liable to be acquitted from commission of offence u/s 354 IPC.

**17.** P.W-1/informant/victim stated that on the date of occurrence accused came and assaulted her and when her daughter/P.W-3/victim came to intervene she was also assaulted by the accused. P.W-2 is an independent witness who stated that on the date of occurrence she saw the accused holding a stick and pushed the informant. P.W-5 stated that she saw a quarrel between the accused and the informant and the accused was holding a stick on his hand. P.W-6 also stated that while he was standing in his verandah he saw the accused assaulting the informant. P.W-7 also stated that the accused assaulted the informant.

**18.** All the witnesses in this case stated that the accused assaulted the informant/P.W-1/victim and the accused was holding a stick on his hand but none has seen the accused assaulting the daughter of the informant. Through cross examination of the P.W's the defence attempted to negate the version of the witnesses and gave suggestion to show that due

to enmical relationship the prosecution has lodged this false case. Admittedly there are some dispute between the accused and the villagers and many cases are pending between the parties. In this case the evidence of the informant, P.W-3 and other witnesses have clearly described the incident that took place on that particular day. The evidence of the witnesses could establish the fact that there was a quarrel between the accused and the informant and that the accused was holding a stick on his hand and the accused assaulted the informant. Now it is to be seen whether the victims received any injury on their person.

- 19.** The medical officer who was examined as P.W-4 proved the medical report marked as exhibit 2 and 3. The medical report clearly shows that the informant received injury and pain in hip joint. Again the injury report shows that P.W-3/victim/daughter of the informant sustained to swelling and pain on back side of her neck. Further the medical report shows that the injuries were simple in nature caused by blunt weapon.
- 20.** Though none of the independent witnesses saw the accused assaulting the daughter of the informant but had seen the accused assaulting the informant. It appears that the accused first assaulted the informant and thereafter assaulted her daughter. Though the witnesses have not seen the assaults on the daughter of the informant but the incident took place after assaults meted to the informant. Therefore, the evidence of informant and P.W-3 (both victims) appears to be corroborating each other and their evidence shows that both received injuries due to assault on them by the accused. Thus the prosecution could successfully prove the ingredients of section 323 IPC and accordingly I hold the accused guilty of commission of offence u/s 323 IPC.
- 21.** Heard the accused on the point of sentence. I have recorded his statement.

- 22.** Considering the nature of the offence and considering the fact that no previous conviction could be proved against the accused, hence lenient punishment will meet the ends of justice.
23. Accordingly, in light of all, I sentence the convict Ganga Sagar Sahu - (a) to pay a fine of Rs.1,000/- (Rupees One Thousand) only in default to undergo simple imprisonment for one month.
- 24.** If the fine is realised, same be paid to the victim as compensation under Section 357 CrPC.
- 25.** His bail bond shall remain in force for a further period of six months as per provision of section 437-A of the Code of Criminal Procedure.
- 26.** Let a copy of the judgment be given to the convict immediately free of cost as per provision of section 363(1) of the Code of Criminal Procedure. The convict is also informed of his right to appeal against the judgment and order of conviction and sentence.
- 27.** Copy of the judgment be forwarded to District Magistrate, Lakhimpur in compliance with section 365 CrPC.
- 28.** The case is disposed of on contest accordingly.

Given under my hand and seal on this 12<sup>th</sup> of April, 2021 at Lakhimpur.

(Ms. Sparsita Garg)  
Judicial Magistrate First Class  
Lakhimpur, North Lakhimpur

**APPENDIX****A WITNESS OF PROSECUTION:**

1. P.W-1: Madhabi Das
2. P.W-2: Moloya Boruah
3. P.W-3: Lakhi Das
4. P.W-4: Dr. Sunadhar Kunwar
5. P.W-5: Sumi Bairagi
6. P.W-6: Pratap Neog
7. P.W-7: Sangita Tapna
8. P.W-8: Umesh Bora

**B EXHIBITS OF PROSECUTION:**

1. Exhibit-1 : Ejahar
2. Exhibit 1(1) : Signature of the informant in the ejahar.
3. Exhibit-2 & 3 : Medical Reports
4. Exhibit 2(1) & 3(1) : Signature of P.W-4 in the medical reports.
5. Exhibit-4 : Sketch Map
6. Exhibit 4(1) : Signature of P.W-8 in the sketch map.
7. Exhibit-5 : Charge Sheet
8. Exhibit 5(1) : Seal and signature of Officer-in-Charge Nabojit Das Baghri.
9. Exhibit 5(2) : Signature of P.W-8 in the chargesheet

**C WITNESS OF DEFENSE: NIL****D EXHIBITS OF DEFENSE: NIL**

(Ms. Sparsita Garg)  
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