

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

P.R. Case No. 707/2018

State

Versus

Md. Rofiqul Islam and others

(Under sections 448/294/352/506/34 IPC)

Charge framed on : 05.07.2019
Evidence recorded on : 28.11.2019
Statements recorded on : Dispensed with
Arguments heard on : 03.03.2021
Judgment delivered on : 03.03.2021
Advocate for the Prosecution : Mr. Jangki Doley
Advocate for the Accused : Md. Inamul Hoque Choudhury

J U D G E M E N T

1. Accused persons stood for trial for commission of offence u/s 448/294/352/506/34 IPC.

2. The informant Farhana Begum lodged an ejahar alleging *inter alia* that her husband lodged an ejahar against the F.I.R. named accused no.1 on 02.07.2018 and thereafter

police came for enquiry. On 02.07.2018 at about 3:30 p.m., while the informant was at her home, the accused persons came to her residence and abused her with obscene words and languages. The informant further stated that the accused persons dragged her by pulling her hairs and assaulted her with fists and kicks. At that time the mother-in-law of the informant namely Ayesha Khatoon came to intervene but the accused persons assaulted her. Further the accused persons threatened to kill the informant and others by sharp weapon. Hence this case.

3. On receipt of the ejahar, incharge of Nowboicha Outpost forwarded the same to North Lakhimpur Police Station and thereafter the O.C. of North Lakhimpur Police Station registered the case as North Lakhimpur P.S. Case no. 728/2018 u/s 447/294/354/325/506/34 IPC. Thereafter I.O. launched investigation of the case and submitted chargesheet u/s 447/294/323/354/506/34 of the Indian Penal Code against the accused persons namely Md. Rofiquel Islam, Moidul Islam, Fokoruiddin and Md. Marsab Ali.

4. Thereafter, cognizance has been taken and summon have been issued to the accused persons. On appearance of accused persons, necessary documents required u/s 207 Cr.P.C have been furnished to them. On perusal of the materials on record formal charges u/s 448/294/352/506/34 IPC are read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

5. Prosecution in support of its case has examined only one (1) witness.

6. Examination of accused persons u/s 313 Cr.P.C. is dispensed with since no incriminating materials are found against them. Accused persons denied adducing evidence in defence.

7. I have heard the arguments advanced by the learned

counsel for the accused persons and Ld. 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 persons in furtherance of common intention on 02.07.2018 at about 3:30 p.m., committed house trespass by entering into the house of the informant with an intention to commit an offence and thereby committed an offence punishable u/s 448/34 of IPC?

Point No 2: Whether the accused persons in furtherance of common intention on the same date, time and place uttered obscene words and languages to the informant and thereby committed an offence punishable u/s 294/34 of IPC?

Point No 3: Whether the accused persons in furtherance of common intention on the same date, time and place used criminal force to the mother-in-law of the informant Ayesha Khatoon and thereby committed an offence punishable u/s 352/34 of IPC?

Point No 4: Whether the accused persons in furtherance of common intention on the same date, time and place committed criminal intimidation by threatening the informant with an injury to his person with dire consequences to kill him and thereby committed an offence punishable u/s 506/34 of IPC?

DISCUSSIONS, DECISIONS AND REASONS THEREOF:

8. Now let me try to decide the above points by appreciating the evidence available in the case record. I

have carefully considered the evidence available in the instant case. From the evidence of **P.W-1/informant Farhana Begum**, it reveals that the informant is no more interested to proceed with the case against the accused persons on the ground that the matter is amicably settled between them. It also reveals that the informant herself has refused to lead evidence against the accused persons in support of the ejarah lodged in this case by her. Thus, from the little evidence that has been brought before this court in the form of statement made by the informant/P.W-1, it is seen that no offence has been made out against the accused persons under any section of law. Situated thus, it is found that the informant has failed to implicate the accused persons of any offence.

ORDER

9. In view of the above discussions, I am of the considered opinion that, prosecution has failed to establish the case against accused persons namely Md. Rofiquel Islam, Moidul Islam, Fokoruiddin and Md. Marsab Ali. Accordingly, accused persons are acquitted of the charge u/s 448/294/352/506/34 IPC levelled against them in this instant case.

10. Set the accused persons at liberty forthwith.

11. The bail bonds for the accused persons are extended for a further period of six (6) months.

12. The case is disposed of on contest accordingly.

Given under my hand and seal on this 03rd day of March, 2021 at North Lakhimpur, Lakhimpur.

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

APPENDIX

A. WITNESS OF PROSECUTION:

1. P.W.1 : Farhana Begum

B. EXHIBITS OF PROSECUTION:

1. Exhibit 1 : Ejahar
2. Exhibit 1(1): Signature of the informant

C. WITNESS OF DEFENSE: NIL

D. EXHIBITS OF DEFENSE: NIL

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