

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS

North Lakhimpur, Lakhimpur

PRESENT: Ms. Sparsita Garg, M.A, LL.M, AJS

Judicial Magistrate First Class,

Lakhimpur, North Lakhimpur

P.R. Case No.681/2019

State

Versus

Lakhiram Bora and others

(Under sections 448/323/324/506/34 IPC)

Charge framed on : 20.01.2021
Evidence recorded on : 20.03.2021
Statements recorded on : Dispensed with
Arguments heard on : 20.03.2021
Judgment delivered on : 20.03.2021
Advocate for the Prosecution : Mr. Jangki Doley
Advocate for the Accused : Mr. Munin Saikia

J U D G E M E N T

1. Accused persons stood for trial for commission of offence u/s 448/323/324/506/34 IPC.

2. The prosecution case is initiated on the basis of written ejahar dated 13.04.2019 alleging *inter alia* that on 12.04.2019 at about 8:00 p.m., the accused persons trespassed into the house of the informant and dragged her by the hairs and assaulted her on her right hand and hit her

on her head with an iron rod. On raising hue and cry, her husband came to her rescue. The accused persons hit the husband of the informant on his head and he sustained to injuries. Further the accused persons threatened to kill the informant. Hence this case.

3. On receipt of the ejahar, in-charge of Simoluguri Outpost forwarded the same to Bihpuria Police Station and thereafter the Officer-in-Charge of Bihpuria Police Station registered the case as Bihpuria P.S. case no. 198/2019 u/s 448/354/325/326/506/34 of the Indian Penal Code. Thereafter Investigating Officer launched investigation of the case and submitted chargesheet u/s 448/323/324/506/34 of the Indian Penal Code against the accused persons namely Lakhiram Bora, Madhu Bora and Jadu Bora.

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 under sections 448/323/324/506/34 IPC is 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 two (2) witnesses.

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 12.04.2019 at about 8:00 p.m., trespassed into the house of the informant with an intent to commit an offence and thereby committed an offence punishable under section 448/34 of the Indian Penal Code?

Point No 2: Whether the accused persons in furtherance of common intention on the same date time and place, voluntarily caused hurt to the informant and her husband Maheswar Bora, and thereby committed an offence punishable under Section 323/34 of IPC?

Point No 3: Whether the accused persons in furtherance of common intention on the same date time and place, voluntarily caused hurt to the informant as well as her husband Maheswar Bora by means of sharp weapon, and thereby committed an offence punishable under section 324/34 IPC?

Point No 4: Whether the accused persons in furtherance of common intention on the same date time and place, criminally intimidation by threatening the informant and her husband with an injury to them and with an intent to cause alarm and thereby committed an offence punishable under section 506/34 of the Indian Penal Code?

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 Pinky**

Borah, 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 ejahar lodged in this case by her. **P.W-2 Maheswar Borah** also corroborated the evidence of P.W-1 and also stated that he no longer intends to proceed with the case against the accused persons. Thus, from the little evidence that has been brought before this court in the form of statement made by the informant/P.W-1 and P.W-2, 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 Lakhiram Bora, Madhu Bora and Jadu Bora. Accordingly, accused persons are acquitted of the charge u/s 448/323/324/506/34 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 20th day of March, 2021 at North Lakhimpur, Lakhimpur.

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

APPENDIX

A. WITNESS OF PROSECUTION:

1. P.W-1 : Pinky Borah
2. P.W-2 : Maheswar Borah

B. EXHIBITS OF PROSECUTION:

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

C. WITNESS OF DEFENCE: NIL

D. EXHIBITS OF DEFENCE: NIL

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