

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

G.R CASE NO: 41 OF 2018
PROSECUTOR: STATE OF ASSAM Vs
ACCUSED: SRI RAJAMON DEURI
SRI NEPEYA DEURI

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

GR CASE NO: 41 / 2018

U/S 447/294/323/506/34 OF I.P.C

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: SRI RAJAMON DEURI AND ANR.

PRESENT: MR. F.U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P SRI R. DUTTA
ADVOCATE FOR THE ACCUSED: SRI M. J. GOGOI

OFFENCE EXAPLAINED ON : 24.09.2019
EVIDENCE RECORDED ON : 26.12.2019, 01.02.2020

ARGUMENT HEARD ON : 01.02.2020
JUDGMENT DELIVERED ON : 01.02.2020

JUDGMENT

PROSECUTION'S CASE IN BRIEF:

1. Prosecution's case in brief as it reveals from the FIR is that on 03.01.2018 at about 6.00 P.M, the accused persons named in the FIR broke open the bamboo fence of informant's homestead and unlawfully entered inside the courtyard of informant's house and started to rebuke the informant by using obscene language. Accused Rajamon Deuri then started to assault informant's husband

Sri Bhupen Deuri by hitting him with a bamboo post and also punching blows and thereby caused severe injury. The informant then intervened and saved her husband. However, the accused persons pushed the informant and threatened to kill her in future. Accused Sri Nepeya Deuri assaulted informant's daughter Smt. Namanjali Deuri by slapping her. The informant thereafter lodged an FIR about the occurrence before the OC of Bihpuria police station.

2. On receipt of the F.I.R, a case was registered being numbered as Bihpuria P.S Case No. 09/18 and after investigation I.O of the case submitted charge sheet against accused persons Sri Rajamon Deuri and Sri Nepeya Deuri for the offences punishable u/s 447/294/323/506/34 of IPC. Copies of relevant documents were furnished to the accused persons u/s 207 CrPC. Considering the relevant documents and hearing both the parties, particulars of offences punishable u/s 447/294/323/506/34 of IPC are read over and explained to the accused persons to which they pleaded not guilty and stood to face the trial.

3. The prosecution in support of its case examined three witnesses, whereas the defence did not examined 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 persons on 03.01.2018 at about 6.00 PM at Kachikata Deurigaon under Bihpuria police station, in furtherance of their common intention, unlawfully entered in the courtyard of the house of informant Smt. Anarkuli Deuri with the intention to cause hurt to informant's husband and daughter, and thereby committed an offence punishable u/s 447/34 of IPC?

(ii) Whether the accused persons on 03.01.2018 at about 6.00 PM at Kachikata Deurigaon under Bihpuria police station, in furtherance of their common intention, voluntarily assaulted informant's husband and Sri Bhupen Deuri and informant's daughter Smt. Namajnali Deuri and thereby caused injury

to them, with the intention to cause hurt, and thereby committed an offence punishable u/s 323/34 of IPC?

(iii) Whether the accused persons on 03.01.2018 at about 6.00 PM at Kachikata Deurigaon under Bihpuria police station, in furtherance of their common intention, rebuked the informant or her husband or daughter by using obscene language in or near any public place to the annoyance of informant or others, and thereby committed an offence punishable u/s 294/34 of IPC?

(iv) Whether the accused persons on 03.01.2018 at about 6.00 PM at Kachikata Deurigaon under Bihpuria police station, in furtherance of their common intention, threatened the informant or her husband or said daughter with injury to their person or reputation with the intent to cause alarm and thereby committed an offence punishable u/s 506/34 of IPC?

DISCUSSION OF EVIDENCE, DECISION AND REASONS THEREOF:

POINT NO.1, 2, 3 & 4

6. For the sake of convenience and as because point no. 1, 2, 3 and 4 are inter-connected, hence they are taken up herein together for discussion & decision as follows:

7. As regards the aforesaid points for determination, informant/PW-1 Smt. Anarkuli Deuri, informant's husband/PW-2 Sri Bhupen Deuri and informant's daughter/PW-3 Smt. Namanjali Deuri in their respective evidence-in-chief have stated that about 2 years back on a day at about 6.00 P.M they had an altercation with the accused persons. Thereafter, the informant/PW-1 lodged an FIR about the occurrence. Exhibit-1 is that FIR in which Exhibit-1(1) is the signature of informant/PW-1. After lodging of that FIR, the aforesaid dispute between both the parties got settled amicably for which they are not interested to proceed with this case any further. During their cross-examination, the said three witnesses have stated that they do not have any objection if the accused persons are acquitted from this case.

8. At the time of argument, learned counsel for 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 going through the evidence deposed by prosecution witnesses as narrated above, it is seen that at the time of occurrence the informant and her husband and said daughter allegedly had an altercation with the accused persons. There is nothing in the evidence of said prosecution witnesses which can show that the accused persons unlawfully trespassed into the courtyard of the house of informant, or used obscene language, or threatened and caused hurt to informant and her husband and said daughter. The prosecution witnesses have not stated anything about any unlawful trespass, or use of obscene word, or causing of hurt, or giving threat by the accused persons as alleged in the FIR. Therefore, it is clear that the witnesses examined by prosecution have not deposed any incriminating materials against the accused persons and have failed to prove the case of prosecution as alleged in the FIR.

DECISION: Point no.1, 2, 3 & 4 are therefore decided in the negative and goes against the prosecution.

ORDER

10. In view of the discussion made above and the decision reached in the foregoing point for determination, it is held that the witnesses examined by prosecution have failed to prove that accused Sri Rajamon Deuri and Sri Nepeya Deuri have committed the offences punishable under section 447/294/323/506/34 of I.P.C as alleged, and as such, the above named accused persons are acquitted of the charges under section 447/294/323/506/34 of I.P.C and they be set at liberty forthwith.

The bail bond of the accused person 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 01st day of February, 2020.

The case is disposed of on contest.

F.U. Choudhury
Additional Chief Judicial Magistrate
North Lakhimpur

APPENDIX(A) PROSECUTION EXHIBITS

Exhibit.1 – F.I.R

(B) DEFENCE EXHIBITS

Nil

(C) PROSECUTION WITNESSES

P.W. 1 – Smt. Anarkuli Deuri

P.W. 2 – Sri Bhupen Deuri

P.W. 3 – Smt. Namanjali Deuri

P.W. 4 – Smt. Kusum Das

(D) DEFENCE WITNESSES

Nil

F.U. Choudhury

Additional Chief Judicial Magistrate

North Lakhimpur