

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,
LAKHIMPUR, NORTH LAKHIMPUR, ASSAM**

Present: Sri Akhtabul Ala, AJS,
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur, Assam

G.R. 3240/2017

Under section 294/342/500 of the of the Indian Penal Code

**State of Assam
-Vs-
Sri Bhai Kakoti**

.....Accused

Date of offence explanation : 22.06.2018
Dates of recording evidence of PWs : 12.02.2020
Date of examination u/s 313, Cr.P.C. : 12.02.2020
Date of Argument : 12.02.2020
Date of judgment : **12.02.2020**

Advocates appeared in the case:-

Sri Prasanta Dutta, Addl. P.P., for the State
Sri Suren Borah, Advocate, for the accused

J U D G M E N T

1. The factual matrix of the prosecution is that one Sri Kanak Kakoti on 04.11.2017 had lodged an FIR with the Officer-in-charge of Bihpuria Police Station alleging that on 02.11.2017 at about 3:00 PM the accused Sri Bhai Kakoti assaulted his son Sri Gyan Jyoti Kakoti (aged 11 years) charging that he steal toffee from his shop. The accused also pressed the neck of his son and also tied his hands with rope and confined him causing injury to him. That apart, the accused defamed

his reputation in the society by stating his son as a thief. Hence, the case.

2. On receipt of the ejahar, the Officer-in-charge of Bihpuria Police Station registered a case vide Bihpuria P.S. Case No. 1009/2017, under section 294/323/342/307/500/34 of the Indian Penal Code and got the investigation into the case commenced. The investigating officer, after completing the investigation, submitted charge-sheet under section 294/342/500 of the Indian Penal Code against accused Sri Bhai Kakoti to stand trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offence under section 294/342/500 of the Indian Penal Code was taken as per section 190(1)(b) of the Code of Criminal Procedure. The accused entered his appearance before the Court after receiving the summons. Copies were furnished to the accused as per provision contained in section 207 of the Code of Criminal Procedure. The particular of offence under section 294/342/500 of the Indian Penal Code when being read over and explained to the accused person he pleaded not guilty and claimed to be tried.

POINTS FOR DETERMINATION:

4. The points which are required to be determined for a just decision of this case are as follows:

(a) Whether the accused had verbally abused the son of the informant with filthy language in public to cause annoyance to him ?

(b) Whether the accused had wrongfully confined the son of the informant ?

(c) Whether the accused had defamed the reputation of the informant in the society ?

5. During the trial the Prosecution side examined the informant Sri Kanak Kakoti as PW-1 and Smti. Lalita Kakoti, the wife of the informant as PW-2. The prosecution had exhibited the ejahar as Ext-1 and the signature of the informant therein as Ext-1(1) . The statement under section 313 of the Code of Criminal Procedure of the accused was recorded and he declined to adduce evidence in defence.

6. I have heard the argument of both sides and thereupon come to the following finding:

DISCUSSION, DECISION AND REASONS THEREOF:

7. For the sake of convenience all the points for determination are taken up together for discussion.

8. The PW-1 Sri Kanak Kakoti, the informant, in his evidence stated that the incident occurred one day in the year 2017 in the day time at the shop of the accused. The accused told him that his son Gayan Jyoti Kakoti had taken a toffee from his shop without telling him and over that matter there was a verbal altercation between him and the accused and later, he lodged an ejahar against the accused out of a misunderstanding. In his cross-examination, he has categorically stated that he does not have any objection if the accused is acquitted in this case as this case arose only out of a misunderstanding.

9. The PW-2 Smti. Lalita Kakoti, the wife of the informant, in her evidence has stated that the accused told her husband on meeting him that their son Gayan Jyoti Kakoti had taken a toffee from his shop without telling him and over that matter there was a verbal altercation

between her husband and the accused and later her husband had lodged an ejahar against the accused out of a misunderstanding. In her cross-examination, she has categorically stated that she does not have any objection if the accused is acquitted in this case as this case arose only out of a misunderstanding.

10. So, from the evidence of both the PWs i.e. PW-1 and PW-2, it can be seen that all that had happened between the informant and the accused was a mere verbal altercation and nothing else.

11. So no offence is made out against the accused and consequently all the aforesaid points for determination are held in negative.

12. The prosecution has failed to prove the case against the accused under section 294/342/500 of the Indian Penal Code and as such he is acquitted from the said offences and is set at liberty.

Bail bonds are extended to further 6 (six) months from today.

The judgment is delivered and operative part of the same is pronounced in the open court on this 12th day of February, 2020.

(Sri Akhtabul Ala)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Dictated & corrected by me-

(Sri Akhtabul Ala)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur

Transcribed & typed by-
Sri Narayan Chetri, Stenographer

Contd. Appendix

A P P E N D I X**WITNESSES FROM THE PROSECUTION SIDE**

Sri Kanak Kakoti (PW-1)

Smti. Lalita Kakoti (PW-2)

PROSECUTION EXHIBITS

Ejhar (Ext-1)

Signature of PW-1 [Ext-1(1)]

WITNESSES FROM THE DEFENCE SIDE

Nil

DEFENCE EXHIBITS

Nil

(Sri Akhtabul Ala)
Chief Judicial Magistrate,
Lakhimpur, North Lakhimpur