

**IN THE COURT OF JUDICIAL MAGISTRATE 1<sup>ST</sup> CLASS,  
LAKHIMPUR, NORTH LAKHIMPUR.**

**CR(W) 24 OF 2018  
U/S 354A IPC**

**PRESENT:**

**SMT. SWEETY BHUYAN**  
Judicial Magistrate 1<sup>st</sup> Class  
Lakhimpur, North Lakhimpur.

**PARTIES:**

**SMT. SANGITA BORAH NATH ..... COMPLAINANT**

**VERSUS**

**SRI SAGAR KOLITA .....ACCUSED PERSON**

**APPEARANCE:**

For the Complainant .....: MR. ANANDA DUTTA

For the Accused Person .....: MR. NANDESWAR PHUKAN

Dates of evidences .....: 07.08.2018, 28.01.2019,  
05.03.2019, 14.08.2019,  
18.11.2019

Date of hearing .....: 15.02.2020

Date of Judgment.....: 27.02.2020

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

1. A complaint petition was filed by the complainant, namely, Smt. Sangita Borah Nath, against Sri Sagar Kolita on 15.03.2018 and the same was registered as CR(W) 24/2018.

- 2.** The complainant and her witnesses were examined and finding sufficient prima facie material against the accused Sri Sagar Kolita under Sections 354A/354/447 of IPC, summon was issued to the accused.
- 3.** The accused person appeared before the court on receipt of summon and prayed for bail, which was allowed.
- 4.** The complainant produced her witnesses and evidence before charge were recorded and after hearing and on perusal of the case record, sufficient material against the accused Sri Sagar Kolita was found under Section 354A of IPC and the particular of the said offence was read over and explained to the accused person to which he pleaded not guilty and claimed to be tried. Formal charge was framed accordingly.
- 5.** The complainant lodged the complaint against the accused person stating therein that on 14.03.2018 at about 10 A.M. the accused came in front of the house of the complainant and uttered obscene words and knowing that the complainant was alone, he entered into her house and asked for a glass of water. When the complainant brought the glass of water and gave it to the accused, the accused caught her hand and with ill-intention tore her wearing apparel. The complainant, as such, shouted and Sabita Nath, Biju Koch and Bipul Nath came and the accused then fled away. Hence, the case.
- 6.** In support of the case, the prosecution has adduced 4 (four) PWs. The statement of the accused was recorded under Section 313 Cr.P.C. and the accused person denied of committing the alleged offence and denied to adduce evidence in his support.

- 7.** After perusing the case record and hearing both sides the following point of determination is framed:

**The Point for Determination is :**

- (i) Whether the accused person, on 14.03.2018 at 10:00 A.M. in the house of the complainant, caught hold of the hand of the complainant and pulled her towards you and tore her clothes, and thereby committed an offence punishable under section **354A** IPC?

**DISCUSSION, DECISION AND REASONS THEREOF:**

- 8.** The complainant stated in her complaint petition that on 14.03.2018 at about 10 A.M. the accused came in front of the house of the complainant and uttered obscene words and knowing that the complainant was alone, he entered into her house and asked for a glass of water. When the complainant brought the glass of water and gave it to the accused, the accused caught her hand and with ill-intention tore her wearing apparel. The complainant, as such, shouted and Sabita Nath, Biju Koch and Bipul Nath came and the accused then fled away.
- 9.** The charge framed against the accused is under Section 354A of IPC, i.e., for the offence of sexual harassment. According to the said Section, (1) a man committing any of the following acts-
- (i) physical contact and advances involving unwelcome and explicit sexual overtures; or

- (ii) a demand or request for sexual favours; or
- (iii) showing pornography against the will of a woman; or
- (iv) making sexually coloured remarks,

shall be guilty of the offence of sexual harassment.

**10.** On the basis of the allegations of the complainant, the act alleged falls under No.(i) of Section 354A(1) of IPC. The complainant in her evidence before the court as PW1 stated that on 14.03.2018 at about 10:00 A.M., the accused entered into in her house and asked for water and as such, when she gave him the glass, he caught hold of her hand and pulled her towards him and tore her cloths, as such, she shouted for help and then her neighbour Biju Koch and after that Sabita Nath came for help and seeing them the accused person ran away.

**11.** The PW2 Sabita Nath stated in her evidence that on 14.03.2018 at about 10:00 A.M., she heard the cries of the complainant from her house, while she was on her way to attend the meeting. The complainant was crying “morilu - O” “morilu - O”, as such, she went there and saw the complainant and her cloths were torn and she was naked. The PW2 did not see the accused person there. On asking she stated that the accused Sagar Kolita asked for a glass of water, and thereafter, he tore her cloths and turned her naked.

**12.** The PW3 Biju Koch stated in his evidence that on 14.03.2018 at about 10 to 10:30 A.M., he was going to a shop and then he heard cries in the house of the complainant and, as such, he went in the house of the complainant. He also saw the accused coming out of her house.

When he asked the complainant, she told him that the accused misbehaved with her and tore her wearing apparel.

**13.**The PW4 Bipul Nath stated in his evidence that on the day of the incident, he was working in the house of Satradhar Nath, whose house falls on the backside of the house of the complainant. He was cutting bamboo. He heard the voice of the complainant shouting “morilu-o-morilu-o, basaok, basaok” after that he did not do anything, but again he heard the same cries, as such, he went to her house and by that time no. of people gathered and he asked them, what was the matter. The complainant told him that the accused came to her house and asked for water and then he came in and tore her clothes and grabbed her and when she shouted, the accused fled away. Biju Koch, Sabita Nath and some other people were present when he went to the house of the complainant.

**14.**Although the complainant alleged that Sabita Nath and Biju Koch came hearing her shouts, but from the evidence of Sabita Nath, it can be known that she did not see the accused on the place of occurrence and she was informed by the complainant that the accused committed the offence. From the evidence of Biju Koch, it can be known that he heard the cries of the complainant and, as such, he went to the house of the complainant and saw the accused coming out of her house and thereafter, on asking the complainant informed him that the accused misbehaved with her and tore her clothes. As such, it can be known that neither PW2 nor PW3 saw the accused committing the offence and they

were informed by the complainant only. The PW4 also was informed by the complainant that the accused committed the offence. Hence, it can be seen that only PW3 saw the accused coming out of the house of the complainant and on the basis of the said evidence alone the accused cannot be held guilty. More-so when the PW4 Bipul Nath admitted in his cross-examination that the daughter of the accused, namely, Anu Kolita lodged a rape case against him and that the complainant is a daughter-in-law of his family. These facts raises several doubts as to the commission of the offence by the accused. The prosecution must be able to prove the guilt of the accused beyond all reasonable doubts, but in the instant case, from the nature of the evidences given by the witnesses, it cannot be held that the prosecution has been able to prove the guilt of the accused beyond all reasonable doubts.

**15.**Hence, considering the above, it can be held that the complainant has failed to prove the charge levelled against the accused under Section 354A of IPC beyond all reasonable doubts thereby making him not guilty under the said Section.

**(CONTD.....)**

**ORDER**

As this court finds the accused person, namely, Sri Sagar Kolita, not guilty of the offence u/s 354A IPC, the said accused person is acquitted of the charges u/s 354A IPC.

The accused person is set at liberty forthwith.

The bail bond is extended for 6 (six) months from today.

The judgment is pronounced in the open court on 27<sup>th</sup> of February, 2020 and given under my hand and seal of this court.

**(SMT. SWEETY BHUYAN)**  
JUDICIAL MAGISTRATE 1<sup>ST</sup> CLASS  
Lakhimpur, North Lakhimpur

Dictated & Corrected by me:

**(SMT. SWEETY BHUYAN)**  
JMFC, NORTH LAKHIMPUR

Transcribed & typed by me:

Kumar Gaurav (Stenographer)

**APPENDIX**

**Prosecution witnesses**

1. PW1 SMT. SANGITA BORAH NATH
2. PW2 SMT. SABITA NATH
3. PW3 SRI BIJU KOCH
4. PW4 SRI BIPUL NATH

**Defence witnesses**

Nil.

**Documents exhibited by the prosecution**

Nil.

**Documents exhibited by the Defence:**

Nil.

**(SMT. SWEETY BHUYAN)**  
JUDICIAL MAGISTRATE 1<sup>ST</sup> CLASS  
Lakhimpur, North Lakhimpur

Dictated & Corrected by me:

**(SMT. SWEETY BHUYAN)**  
JMFC,NORTH LAKHIMPUR

Transcribed & typed by me:

Kumar Gaurav (Stenographer)