

**IN THE COURT OF JUDICIAL MAGISTRATE 1ST CLASS,
LAKHIMPUR, NORTH LAKHIMPUR.**

**GR CASE NO.1710/2017
U/S 294/506/34 IPC.**

PRESENT:

SMT. SWEETY BHUYAN
Judicial Magistrate 1st Class
Lakhimpur, North Lakhimpur.

PARTIES:

STATE OF ASSAM

Vs

1. SRI GOKUL GOGOI

2. SRI JAGAT SAIKIA

..... **ACCUSED PERSONS**

Appearance:

For the State: MR. JANGKI DOLEY

For the accused persons: MR. PANKAJ SAIKIA

Dates of Evidences: 14.05.2019, 29.05.2019,
30.07.2019, 19.11.2019,

Date of Argument: 10.02.2020

Date of Judgment: 24.02.2020

JUDGMENT

1. The accused persons, namely, **Sri Gokul Gogoi**, son of Sri Tulan

Gogoi, R/o village - No.1 Lathow, Police Station - North Lakhimpur, and **Sri Jagat Saikia**, son of Sri Dharani Saikia @ Funu, R/o village - Adarsha Gaon, Police Station- North Lakhimpur, in the District of Lakhimpur, here in this case have been put to trial to answer the charges for the offence punishable under Section 294/506/34 of the Indian Penal Code.

- 2.** The brief facts of the prosecution case is that on 13.06.2017 at about 11 A.M. the informants in connection with a case lodged against the Nowboicha Regional Srimanta Sankardev Kala Krishti Vikash Kendra alongwith some reknowned persons and members of the Kendra alongwith an Advocate appeared before the Nowboicha Outpost and then on the aid of the father of the accused Gokul Gogoi, namely, Sri Tulan Gogoi, the said accused Gokul Gogoi wrongfully confined the informants alongwith the other persons within the premises of the Police Outpost and the accused Jagat Saikia criminally intimidated them to cut them into pieces with a dao. Somehow the informants alongwith the other members of the Kendra saved their lives. The accused persons while the informants and the other persons were inside the police outpost, they even attempted to bring a dao so that none of the person could come out of the outpost, so as to cut them into pieces. The accused persons also uttered obscene words against the informants and the other persons and threatened to kill them whenever they got chance in the future. Hence, the case, and the same was registered as North Lakhimpur Police Station Case No.746/2017 under Sections

294/506/34 of the Indian Penal Code against Sri Gokul Gogoi and Sri Jagat Saikia named in the ejahar. The Investigating Officer submitted Charge Sheet against the accused persons, namely, Sri Gokul Gogoi and Sri Jagat Saikia under Sections 294/506/34 of the Indian Penal Code.

3. After appearance of the accused persons, the copies of the relevant documents were furnished to both the accused persons. Upon hearing and on perusal of the case record the particulars of offence under sections 294/506/34 of IPC were read over and explained to the accused persons by my Learned Predecessor to which they pleaded not guilty and claimed to be tried.
4. In support of the case, the prosecution has adduced 6 PWs and 1 CW. The statements of the accused persons were recorded under Section 313 Cr.P.C. and the accused persons denied of committing the alleged offence and also denied to adduce any evidence in their support.
5. After perusing the case record and hearing both sides the following points for determination are framed:
 - (i) Whether the accused persons, on 13.06.2017 at about 11 A.M. in the Nowboicha Police Outpost, in furtherance of their common intention, uttered obscene words against the informants and the other persons present alongwith the informants, in or near any public place to the annoyance of other persons, and thereby committed an offence punishable

under section **294/34** IPC?

- (ii) Whether the accused persons, on 13.06.2017 at about 11 A.M. in the Nowboicha Police Outpost, in furtherance of their common intention, criminally intimidated the informants and the other persons present alongwith the informants with the threatening to cause death and thereby committed an offence punishable under Section **506/34** IPC?

DECISIONS AND REASONS FOR DECISION:

- 6.** I have heard the argument from both sides.
- 7.** All the points for determination are decided together for the purpose of convenience and brevity.

The informants stated in their ejahar that on 13.06.2017 at about 11 A.M. the informants in connection with a case lodged against the Nowboicha Regional Srimanta Sankardev Kala Krishti Vikash Kendra alongwith some reknowned persons and members of the Kendra alongwith an Advocate appeared before the Nowboicha Outpost and then on the aid of the father of the accused Gokul Gogoi, namely, Sri Tulan Gogoi, the said accused Gokul Gogoi wrongfully confined the informants alongwith the other persons within the premises of the Police Outpost and the accused Jagat Saikia criminally intimidated them to cut them into pieces with a dao. Somehow the informants alongwith the other members of the Kendra saved their lives. The accused persons while the informants

and the other persons were inside the police outpost, they even attempted to bring a dao so that none of the person could come out of the outpost, so as to cut them into pieces. The accused persons also uttered obscene words against the informants and the other persons and threatened to kill them whenever they got chance in the future.

The PW1 Sri Tapeswar Saikia, who is one of the informant stated in his evidence that on the day of the incident there was an altercation between him and the accused persons and out of anger he lodged the case. That they have settled the matter amicably with the accused persons and has no grievances against them.

The other informant who has been examined as CW1 Sri Jageswar Borah stated in his evidence that on the day of the incident at the Nowboicha police outpost the accused persons threatened all of them to cut into pieces.

The PW2 Horen Sharma stated in his evidence that on the day of the incident he was present in the Nowboicha outpost and about 63 persons of the Srimanta Sankardeb Kristi Bikash Kendra were present there for amicable settlement and then the accused Gokul Gogoi shouted at them saying that they have misbehaved with his father and he will not allow them to come out of the outpost and if they all came out then he will cut them into pieces. The accused Jagat Gogoi told the boys who accompanied him to bring dao, shovel to cut them into pieces.

The PW3 Dilip Hazarika stated in his evidence that on the day of the incident he alongwith the other members of the Srimanta Sankardeb Kristi Bikash Kendra were present in the Nowboicha outpost and there the accused Gokul Gogoi came and threatened them that no one of them could come out of there and he will tie them with a rope.

The PW4 Shekhar Jyoti Borah stated in his evidence that on the day of the incident he took his father alongwith about 80 persons to the Nowboicha police outpost regarding a case and then at first the accused Gokul Gogoi came to the room of the I/C and adduced the villagers using obscene words. Thereafter, the accused Jagat Saikia came there and told them to close the door and told that if someone comes out of the room then they will cut them into pieces. At that time he was outside the room of the I/C and others including his father were inside the room.

The PW5 Hemanta Rajkhowa stated in his evidence that on the day of the incident he appeared before the I/C Nowboicha police outpost and about 20 persons were there in the room of the I/C and when they came out of the room the accused Jagat Saikia and Gokul Gogoi abused them using obscene words.

- 8.** The informant Tapeswar Saikia alleged in the ejahar that the accused persons criminally intimidated him and the other persons who were present in the outpost in connection with a case lodged by the father of the accused. That the accused persons also uttered

obscene words against them. He also brought the said allegation before the Investigating Officer who recorded his statement. But in his evidence before the court he did not mention any such allegations and instead deposed that there was only an altercation and he lodged the case out of anger. The other informant who was brought as CW1 deposed that the accused persons threatened to cut them into pieces. The PW2, PW4 and PW5 although deposed before the court that the other accused Jagat Saikia was present at the time of the incident but in their statement before the police they specifically stated that the said accused was not present at the time of the incident.

- 9.** Further other than the PW4 and PW5 none of the other PWs deposed about utterance of obscene words by the accused persons. But all the PWs have mentioned about the utterance of obscene words by the accused persons in their statements before the police, as such, in order to prove that the accused persons have uttered obscene words against the informants and the other persons in the police outpost, it is essential that the prosecution proves it beyond all reasonable doubts, but considering the fact that other than PW4 and PW5 none of the witnesses mentioned about utterance of obscene words as well as the fact that there are contradictions as to the presence of the accused Jagat Saikia at the time of the incident raises serious doubts as to the commission of the said offence by the accused persons. Hence, it can be said that the prosecution has

miserably failed in proving the guilt under Section **294/34** of the accused persons beyond all reasonable doubts.

10. The next offence alleged is the offence of criminal intimidation to cause death. Firstly there are contradictions in the statements of the informant before the police and his deposition before the court. Secondly the Investigating Officer failed to adduce the evidence of the other informant Jageswar Bora as a PW evidence due to which his statement was not recorded and he was called as a court witness. Thirdly all the other PWs although stated in their statements before the Investigating Officer that the accused Jagat Saikia was absent at the time of the incident, but in their evidence before the court, they deposed that the accused Jagat Saikia was present at the time of the incident and threatened them alongwith the accused Gokul Gogoi. These factors taken together raises severe doubts as to the credibility of the witnesses and thereby weakening the case of the prosecution. As the principle is to establish the guilt beyond all reasonable doubts but in the presence circumstances it can be seen that several doubts have arisen and the benefit of the same goes to the accused persons. Hence, the prosecution has completely failed in proving the guilt of the accused persons u/s **506/34** beyond all reasonable doubts thereby making them not guilty under the alleged sections of law.

(Contd....)

ORDER

As this court finds both the accused persons, namely, **Sri Gokul Gogoi** and **Sri Jagat Saikia**, not guilty of the offence u/s 294/506/34 of IPC, the accused persons are acquitted of the charges u/s 294/506/34 of IPC.

The accused persons are set at liberty forthwith.

The bail bonds are extended for 6 (six) months from today.

The judgment is pronounced in the open court.

Given under my hand and seal of this court on 24th of February, 2020.

(SMT. SWEETY BHUYAN)
JUDICIAL MAGISTRATE 1ST 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 Sri Tapeswar Saikia
2. PW2 Horen Sharma
3. PW3 Dilip Hazarika
4. PW4 Shekhar Jyoti Borah
5. PW5 Hemanta Rajkhowa
6. PW6 Inspector Jiban Das

Court witness

1. CW1 Sri Jageswar Borah

Defence witnesses

Nil.

Documents exhibited by the prosecution

1. EXT.1: EJA HAR
2. EXT.2: SKETCH MAP
3. EXT.3: CHARGESHEET

Documents exhibited by the Defence

Nil.

(SMT. SWEETY BHUYAN)
JUDICIAL MAGISTRATE 1ST CLASS
LAKHIMPUR, NORTH LAKHIMPUR

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(SMT. SWEETY BHUYAN)
JMFC, NORTH LAKHIMPUR

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Kumar Gaurav (Stenographer)