

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

**GR CASE NO.936/2016
U/S 341/352/294/506/34 IPC.**

PRESENT:

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

PARTIES:

STATE OF ASSAM

Vs

1. Sri Gunojit Bora

2. Sri Kamal Gogoi @ Serekke

..... **ACCUSED PERSONS**

Appearance:

For the State: MR. JANGKI DOLEY

For the accused persons: SMT. MINAKSHI KONWAR &
MR. DAMBARU BHUYAN

Date of Evidence: 10.01.2020, 05.02.2020

Date of Argument: 05.02.2019

Date of Judgment: 05.02.2019

JUDGMENT

- 1.** The accused persons, namely, **Sri Gunojit Bora** Son of Late Suren Bora, R/o Bormuriagaon, Ward No.11, Police Station - North Lakhimpur and **Sri Kamal Gogoi @ Serekke**, son of Sri Indreswar Gogoi, R/o Village - Bormuriagaon, Ward No.12, 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 341/352/294/506/34 of the Indian Penal Code.
- 2.** The brief facts of the prosecution case is that on 24.04.2016 at about 11:20 P.M. the informant alongwith her husband and two years old daughter were returning from a birthday party near their house and then near the gate of the house both the accused persons came in a bike with the intention to knock down the informant and her husband and then they stopped the motorcycle and uttered obscene words against the informant and misbehaved with her. When her husband obstructed the accused persons they strangulated his neck and hit him on his face. They also threatened to kill them and to cut the husband of the informant into pieces and will make the informant a widow. On the same night at 1 A.M. both the accused persons standing outside the house of the informant uttered obscene words. Hence, the case, and the same was registered as North Lakhimpur Police Station Case No.391/2016 under Sections 354/323/506/294/34 of the Indian Penal Code against Sri Gunojit Bora named in the ejahar. The Investigating Officer

submitted Charge Sheet against the accused persons, namely, Sri Gunojit Bora and Sri Kamal Gogoi @ Serekke under Sections 354/294/506/34 of the Indian Penal Code.

3. On going through the materials on record, this court is of the opinion that there is sufficient grounds to presume that the accused persons have committed an offence under Sections 341/352/294/506/34 of the Indian Penal Code, which this court is competent to try and adequately punish. Accordingly charges under the said Sections are framed and the particulars of the said offences are read over and explained to the accused persons, to which they pleaded not guilty and claimed to be tried.
4. In support of the case, the prosecution has adduced two PWs. The statement of the accused persons u/s 313 CrPC are dispensed with due to lack of incriminating materials.
5. After perusing the case record and hearing both sides the following points for determination are framed:

The Points for Determination:

- (i) Whether the accused persons, on 24.04.2016 at about 11:20 P.M. near the gate of the house of the informant, in furtherance of your common intention, wrongfully restrained the informant, her husband alongwith their two years old daughter, and thereby committed offence under section **341/34** of the Indian Penal Code?

- (ii) Whether the accused persons, on 24.04.2016 at about 11:20 P.M. near the gate of the house of the informant, in furtherance of your common intention, assaulted or used criminal force against the husband of the informant, otherwise than on grave and sudden provocation given by him, and thereby committed an offence punishable under section **352/34** of the Indian Penal Code?
- (iii) Whether the accused persons, on 24.04.2016 at about 11:20 P.M. near the gate of the house of the informant and at about 1 A.M. in front of the house of the informant, in furtherance of your common intention, uttered obscene words against the informant and her husband, in or near any public place to the annoyance of other persons, and thereby committed an offence under section **294/34** of the Indian Penal Code?
- (iv) Whether the accused persons, on 24.04.2016 at about 11:20 P.M. near the gate of the house of the informant, in furtherance of your common intention, criminally intimidated the informant and her husband with the threat to cause death and thereby committed the offence under Section **506/34** of the Indian Penal Code?

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.

The informant stated in her ejahar that on 24.04.2016 at about 11:20 P.M. the informant alongwith her husband and two years old daughter were returning from a birthday party near their house and then near the gate of the house both the accused persons came in a bike with the intention to knock down the informant and her husband and then they stopped the motorcycle and uttered obscene words against the informant and misbehaved with her. When her husband obstructed the accused persons they strangulated his neck and hit him on his face. They also threatened to kill them and to cut the husband of the informant into pieces and will make the informant a widow. On the same night at 1 A.M. both the accused persons standing outside the house of the informant uttered obscene words.

The informant in her evidence before the court as PW1 stated that the incident took place in the year 2016 at about 10:30 P.M. to 11:00 P.M. on the road at K.B. Road. On the night of the incident, she, her husband and her daughter were returning to their house after attending a birthday party. On their way they found the accused persons and there were some verbal altercation between them and out of anger, she lodged this case. The accused persons did not assault her, her husband and her daughter.

In cross-examination, the PW1 stated that she has no grievances against the accused persons and if they are acquitted

she has no objection.

The PW2, who is the husband of the informant stated in his evidence that the incident took place about two years ago at about 9:30 P.M. on the road at K.B. Road. On the night of the incident, he and his wife were returning to their house after attending a birthday party. On their way they found the accused persons and there was some verbal altercation between them and out of anger, his wife lodged this case. The accused persons did not assault them. However, his cross-examination was declined by the defence.

From the evidence of the informant/PW1 and the PW2, it can be known that on the night of the incident, the informant and her family members were returning to their house after attending a birthday party and on their way they found the accused persons and there was some verbal altercation between them and out of anger, the informant lodged this case. The accused persons did not assault the informant, her husband and her daughter. And, it can be seen that the informant/PW1 and her husband, i.e., PW2 did not state about offence committed by the accused persons, as such, the prosecution has failed to establish the guilt of the accused persons u/s 341/352/294/506/34 the Indian Penal Code beyond reasonable doubt, thereby making them not guilty under the said Section.

(Contd....)

ORDER

As this court finds both the accused persons, namely, **Sri Gunojit Bora** and **Sri Kamal Gogoi @ Serekke**, not guilty of the offence u/s 341/352/294/506/34 of IPC, the accused persons are acquitted of the charges u/s 341/352/294/506/34 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 5th 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: Smt. Bismita Borah
2. PW2: Sri Tibrajyoti Hazarika

Defence witnesses

Nil.

Documents exhibited by the prosecution

1. Ext.1: Ejahar

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

Transcribed & typed by me:

Kumar Gaurav (Stenographer)