

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

G.R CASE NO: 656 OF 2017  
PROSECUTOR: STATE OF ASSAM VS  
ACCUSED: SRI LENGERA KUMAR  
              SRI MUNKU KUMAR  
              SRI PUNA KUMAR

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

GR CASE NO: 656 / 2017

U/S 341/352/294/506/34 OF IPC

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: SRI LENGERA KUMAR & 2 ORS

PRESENT: MD. F. U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P SRI R. DUTTA  
ADVOCATE FOR THE ACCUSED: SMTI NILAKSHI HAZARIKA

OFFENCE EXPLAINED ON : 23.09.2019  
EVIDENCE RECORDED ON : 04.12.2019

ARGUMENT HEARD ON : 04.12.2019  
JUDGMENT DELIVERED ON: 04.12.2019

**JUDGMENT**

**PROSECUTION'S CASE IN BRIEF:**

1. Prosecution's case in brief as it reveals from the FIR is that on 13/03/2017 at about 03:00 P.m, the above named three accused persons restrained

informant Sri Madhab Kumar in front of their house in connection with keeping of informant's bicycle by leaning the same on the bamboo fencing of the house of accused persons. The accused persons then rebuked the informant by using obscene language and also assaulted him physically with bamboo fence post on various parts of his body and caused injury. After hearing hue & cry, informant's father Sri Lulu Kumar and brother Sri Jadav Kumar came there to save the informant, but the accused persons physically assaulted informant's father and said brother and caused injury to them. The accused persons also caused destruction of the bicycle belonging to informant and threatened to kill them in future. The informant thereafter lodged an F.I.R about the occurrence before the O/C of Bihpuria police station.

2. On receipt of the FIR, the OC of Bihpuria P.S registered a case vide Bihpuria P.S Case No. 201/17. After investigation, I.O of the case submitted charge-sheet against accused Sri Lengera Kumar @ Dulu Kumar, Sri Munku Kumar, and Sri Puna Kumar for the offences punishable u/s of IPC. Copies of relevant documents were furnished to the accused person u/s 207 of CrPC. Considering the relevant documents and hearing both the parties, particulars of the offences punishable u/s 341/352/294/506/34 of IPC are read over and explained to said three accused persons to which they pleaded not guilty and stood to face the trial.

3. The prosecution in support of its case examined three witness whereas the accused did not examine any witness in support of their defence. The examination of accused u/s 313 of CrPC was dispensed with finding no incriminating materials against him. 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:

**POINT FOR DETERMINATION:**

(i) Whether the accused persons, in furtherance of their common intention, on 13/03/2017 at about 03:00 P.M at Boraikhana Bagisa village, voluntarily restrained informant Sri Madhab Kumar and his father Lulu Kumar and brother Jadav Kumar so as to prevent them from proceeding in any direction in which

they had a right to proceed and thereby committed an offence punishable under section 341/34 of I.P.C?

(ii) Whether the accused persons, in furtherance of their common intention, on 13/03/2017 at about 03:00 P.M at Boraikhana Bagisa village, assaulted or used criminal force upon the informant and his father and said brother, otherwise than on grave and sudden provocation and thereby committed an offence punishable under section 352/34 of I.P.C?

(iii) Whether the accused persons, in furtherance of their common intention, on 13/03/2017 at about 03:00 P.M at Boraikhana Bagisa village, rebuked the informant and his father and said brother 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, in furtherance of their common intention, on 13/03/2017 at about 03:00 P.M at Boraikhana Bagisa village, threatened the informant and his father and said brother with injury to their persons, with the intent to cause alarm, and thereby committed an offence punishable under section 506/34 of I.P.C?

**DISCUSSION OF EVIDENCE, DECISION AND REASONS THEREOF:**

**POINT NO. 1, 2, 3 & 4**

5. For the sake of convenience, and as because the point no.1, 2, 3 & 4 are inter-connected, hence they are taken up herein together for discussion and decision. As regards the aforesaid points for determination, informant Smt. Madhab Kumar as PW1 in his evidence in chief has stated that the accused persons are his neighbours. About two years back on a day at about 03:00 P.M, he alongwith his father and brother Jadav Kumar had an altercation with the accused persons. Thereafter, he lodged an F.I.R about the occurrence in police station. Exhibit-1 is that FIR in which Exhibit-1(1) is her signature. After lodging of that FIR, the aforesaid dispute between both the parties got settled amicably due to which he is not willing to proceed with this case any further. During his cross-examination, PW-1 has stated that he do not have any objection if the accused is acquitted from this case.

6. PW2 Sri Lulu Kumar in his evidence in chief has stated that the informant is his son and the accused persons are his related brothers. About two years back on a day at about 03:00 P.M, he alongwith the informant and another son Jadav Kumar had an altercation with the accused persons. Thereafter, the informant lodged an F.I.R about the occurrence in police station. After lodging of that FIR, the aforesaid dispute between both the parties got settled amicably due to which he is not willing to proceed with this case any further. During his cross-examination, PW-1 has stated that he do not have any objection if the accused is acquitted from this case.

7. PW3 Sri Jadav Kumar in his evidence in chief has stated that the informant is his brother and the accused persons are his neighbours. About two years back on a day, he alongwith his father and informant had an altercation with the accused persons. Thereafter, the informant lodged an F.I.R about the occurrence in police station. After lodging of that FIR, the aforesaid dispute between both the parties got settled amicably due to which he is not willing to proceed with this case any further. During his cross-examination, PW-1 has stated that he do not have any objection if the accused is acquitted from this case.

8. At the time of argument, learned counsel for the defence submitted that the prosecution has failed to prove its case as alleged and hence the accused persons are liable to be acquitted from this case.

9. On perusal of the evidence deposited by PW1, PW2 & PW3, it is seen that at the time of occurrence the informant and his father and brother Jadav Kumar allegedly had an altercation with the accused persons. There is nothing in the evidence deposited by PW-1, PW2 & PW3 which can show that the accused persons rebuked the informant or his father or brother by using obscene words in or near any public place, or that the accused persons restrained them, or threatened them, or assaulted or used criminal force upon them. A simple altercation between both the parties by no stretch of imagination can be understood to constitute the offences as alleged. There is no iota of evidence available in the case record which can show that the accused persons have committed the offences as alleged. As such, it is clear that the witnesses

examined by prosecution have not deposed any incriminating material against the accused persons and have failed to prove the case of prosecution as alleged against the accused 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 discussions made above and the decisions reached in the foregoing points for determination, it is held that the witnesses examined by prosecution have failed to prove that accused Sri Lengera Kumar @ Dulu Kumar, Sri Munku Kumar, and Sri Puna Kumar have committed the offences punishable under section 341/352/294/506/34 of IPC as alleged, and as such, the accused persons are acquitted of the charges under section 341/352/294/506/34 of IPC and they be set at liberty forthwith.

This judgment is given under my hand, and seal of this court on this the 04<sup>th</sup> day of December, 2019.

The case is disposed of on contest.

F.U. Choudhury  
Additional Chief Judicial Magistrate  
North Lakhimpur

**APPENDIX****(A) PROSECUTION EXHIBITS**

Exhibit. 1 – FIR

**(B) DEFENCE EXHIBITS**

Nil

**(C) PROSECUTION WITNESSES**

P.W. 1 – Sri Madhab Kumar

P.W. 2 – Sri Lulu Kumar

P.W. 3 – Sri Jadav Kumar

**(D) DEFENCE WITNESSES**

Nil

F.U. Choudhury  
Additional Chief Judicial Magistrate  
North Lakhimpur