

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

G.R CASE NO: 1813 OF 2015  
PROSECUTOR: STATE OF ASSAM VS  
ACCUSED: SRI PRASANTA DAS

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

GR CASE NO: 1813 / 2015

U/S 325/294/506 OF I.P.C

PROSECUTOR: STATE OF ASSAM

VERSUS

ACCUSED: SRI PRASANTA DAS

PRESENT: MD. F. U. CHOUDHURY, AJS

ADVOCATE FOR THE PROSECUTION: LD. A.P.P SRI R. DUTTA  
ADVOCATE FOR THE ACCUSED: SRI R. MAHANTA

CHARGE FRAMED ON : 04.05.2016  
EVIDENCE RECORDED ON :05.08.16, 16.09.16,  
29.10.18, 06.09.19  
ARGUMENT HEARD ON : 31.10.2019  
JUDGMENT DELIVERED ON : 31.10.2019

**JUDGMENT**

**PROSECUTION'S CASE IN BRIEF**

1. Prosecution's case in brief as it reveals from the F.I.R is that on the night of 10/09/2015 at about 08:00 P.M, accused Sri Dulal Das, Sri Prasanta Das and Sri Jogeswar Das came to the grocery shop of informant Smti Bijumoni Das at Aniruddha Than Tiniali and then rebuked the informant by using obscene words. Accused Sri Prasanta Das then caught hold of the hairs of informant and dragged her and assaulted her and caused injury on various parts of her body. At that time the informant ran away from spot but accused Sri Jogeswar Das chased the informant. Accused Sri Prasanta Das also threatened to kill the informant. The

informant then lodged an F.I.R about the occurrence before the O/C of Bihpuria P.S.

2. On receipt of the FIR, the O/C of Bihpuria P.S who registered the same as Bihpuria P.S case no. 329/15. After investigation, I.O of the case submitted charge-sheet against accused person Sri Prasanta Das for the offences punishable u/s 506/325/294 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 offences punishable u/s 506/325/294 of IPC are read over and explained to the accused person to which he pleaded not guilty and stood to face the trial.

3. The prosecution in support of its case examined six witnesses whereas the accused did not examine any witness in support of his defence. The accused was examined under section 313 of CrPC. Defence case is of total denial as it reveals from the statements made by accused and the tenor of cross-examination of prosecution witnesses by defence. 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:

**POINTS FOR DETERMINATION:**

(1) Whether the accused on 10/09/2015 at about 08:00 P.M in the night at Aniruddha Than Tiniali under Bihpuria P.S, voluntarily caught hold of the hairs of informant Smti Bijumoni Das and then assaulted the informant physically and caused injury to her with the intention to cause grievous hurt, and thereby committed an offence punishable under section 325 of I.P.C?

(2) Whether the accused on 10/09/2015 at about 08:00 P.M in the night at Aniruddha Than Tiniali under Bihpuria P.S, rebuked the informant by using obscene words in or near any public place to the annoyance of informant or others, and thereby committed an offence punishable under section 294 of I.P.C?

(3) Whether the accused on 10/09/2015 at about 08:00 P.M in the night at Aniruddha Than Tiniali under Bihpuria P.S, threatened the informant with injury to her person with the intent to cause alarm, and thereby committed an offence punishable under section 506 of I.P.C?

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

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

5. For the sake of convenience, and as because point No. 1, 2 & 3 are interconnected, hence they are taken up herein together for discussion and decision.

6. As regards the aforesaid points for determination, the most vital witnesses examined by prosecution are the PW2 Sri Uma Kanta Das (informant's father in law) and PW3 Smti Bijumoni Das (informant). Therefore, let me first narrate the evidence deposed by PW2 & PW3 and then proceed to discuss the same. The PW2 Sri Uma Kanta Das in his evidence in chief has stated that on a day in the year 2015 at about 07:00 P.M, he went to the shop of his daughter in law Smti Bijumoni Das. At that time, accused Sri Prasanta Das entered into the said shop and pulled his said daughter in law. His daughter in law then ran to her house. Thereafter he closed the shop.

7. PW3 Smti Bijumoni Das in her evidence in chief has stated that she is the informant. On a day about one year back at about 07:00 P.M, the accused entered inside her shop and caught hold of her hairs and then assaulted her. She then ran away from the shop. Her father in law was in her shop to purchase some article. After the occurrence, her father in law closed her shop. She then lodged an F.I.R about the occurrence in police station, Exhibit -1 is that F.I.R in which exhibit – 1(1) is her signature.

8. Now, from the evidence deposed by PW2 & PW3 as narrated above, it is seen that the crux of the allegation against the accused is that, at the time of occurrence the accused entered inside the shop of informant and caught hold of her hairs and then assaulted her physically. The foregoing allegations, in my opinion, clearly attracts the offence punishable under section 323 of I.P.C. Hence, let me proceed with the discussion to find out as to whether the aforesaid version of PW2 & PW3 can be relied upon to form a concrete opinion against the accused.

9. In a quest to find out the veracity of the aforesaid versions of PW2 & PW3, it is seen on perusal of cross-examination of PW2 that the PW2 has denied the suggestion of defence that he did not mentioned before I.O /police that in the year 2015 at about 07:00 P.M, he went to the shop of his daughter in law Smti Bijumoni Das and at that time accused Sri Prasanta Das entered into the said shop and pulled his said daughter in law. However, in this connection, PW5 Sri Krishna Chouhan, A.S.I of police, who investigated this case, in his cross-examination has confirmed that the PW2 did not mentioned the aforesaid allegations in his statement before him/PW5. In my opinion, the aforesaid allegations made by PW2

are the most important part of the alleged occurrence, and hence, had the occurrence took place as alleged then the PW2 would have definitely stated the same in his statement before I.O/PW5. Therefore, omission to mention the aforesaid allegations by PW2 before the I.O/PW5 is clearly a material contradiction as per Section 162 of CrPC which creates doubts as regards the credibility of the aforesaid statements made by PW2.

10. Now, coming to the version deposed by PW3/informant as narrated above, it is seen that though the informant in her F.I.R has mentioned that there were three persons involved in the commission of alleged occurrence, but in her evidence the informant/PW3 has mentioned about the involvement of only one accused. This clearly shows that the version of informant in the F.I.R is consistent to that of her version deposed in court as PW3. Further, though PW3 has stated that the accused caught hold of her hairs and assaulted her, but in this respect the PW2, who claimed himself to be an eyewitness, has stated that the accused pulled the informant/PW2. This shows that the version of PW3 is inconsistent with that of the version stated by PW2. The aforesaid inconsistencies, in my opinion, creates doubt as regards the credibility of the evidence deposed by PW2.

11. Besides the above, as stated by I.O/PW5, the house of Smti Rima Das is situated near the place of alleged occurrence. However, in this respect, PW4 Smti Rima Das in her evidence in chief has stated that she did not see the occurrence and she heard that there took place an altercation between the accused and informant. In my opinion, had the occurrence took place as alleged, then the PW4, who is resident near to the place of occurrence, must have been able to corroborate the version of informant. As such, the evidence deposed by PW4 further creates doubt as regards the credibility of the version of PW2 & PW3. Further, another independent witness PW1 Sri Moina Das in his evidence in chief has stated that he do not know anything about the occurrence.

12. Therefore, considering the above, I find that the witnesses examined by prosecution have failed to prove beyond reasonable doubts that the accused has assaulted and caused hurt to the informant. Be it mentioned here that though PW6 Dr. Madhab Kumar Das, who is the medical officer, in his evidence in chief has stated he examined Smti Bijumoni Das and found abrasion at both forearms, but there is nothing in the evidence of PW6 which can prove that such abrasion was caused by the accused.

13. Before parting with the discussion, I deem it fit mention here that none of the witnesses examined by prosecution have stated anything in support of the allegations of use of obscene words by the accused, or any threat being given by the accused as alleged in the F.I.R. Hence, there is no evidence against the accused with respect to the offences punishable under section 294/506 of I.P.C.

*DECISION: Point no.1, 2 & 3 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 beyond reasonable doubts that accused Sri Prasanta Das has committed the offences punishable under section 506/325/294 of IPC as alleged, and as such, the accused person is acquitted of the charges under section 506/325/294 of IPC on benefit of doubt and he be set at liberty forthwith.

The bail bond of the accused person shall remain in force for another six months from today.

This judgment is given under my hand, and seal of this court on this the 31<sup>st</sup> day of October, 2019.

The case is disposed of on contest.

F.U. Choudhury  
Additional Chief Judicial Magistrate  
North Lakhimpur

**APPENDIX**

(A) **PROSECUTION EXHIBITS**

- Exhibit. 1 – FIR
- Exhibit. 2 – Endorsement order in F.I.R form
- Exhibit. 3 – Sketch Map
- Exhibit. 4 – Charge Sheet
- Exhibit. 5 – Medical Report.

(B) **DEFENCE EXHIBITS**

Nil

(C) **PROSECUTION WITNESSES**

- P.W. 1 – Sri Moina Das
- P.W. 2 – Sri Uma Kanta Das
- P.W. 3 – Smti Bijumoni Das
- P.W. 4 – Smti Rima Das
- P.W. 5 – A.S.I Krishna Chouhan
- P.W. 6 – Dr. Madhab Kumar Das

(D) **DEFENCE WITNESSES**

Nil

F.U. Choudhury  
Additional Chief Judicial Magistrate  
North Lakhimpur