

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, LAKHIMPUR,  
NORTH LAKHIMPUR, ASSAM**

Present: Shri Narayan Kuri, AJS,  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur, Assam

**G.R. 799/2016**  
U/s 294/323/506, IPC

**State of Assam**

**-Vs-**

**1. Sri Babakon Chutia**

S/O: Sri Lakheswar Chutia

R/O: Hessamora

P.S: Boginadi

District: Lakhimpur, Assam

**2. Smti. Durgeswari Chutia**

W/O: Late Kula Chutia

R/O: Hessamora

P.S: Boginadi

District: Lakhimpur, Assam

.....Accused persons

Date of offence explanation : 07.09.2016  
Dates of recording evidence : 20.10.2017, 04.10.2018,  
19.12.2018, 20.04.2019  
Date of argument : 20.04.2019  
Date of judgment : **20.04.2019**

**Advocates appeared in the case:-**

Smti. Ajanta Sharma, Addl. P.P., for the State

Sri Mohananda Padi, Advocate, for the accused persons

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

1. The prosecution case, in brief, is that on 08.04.2016 informant Smti. Priyanka Borah has lodged an FIR with the Officer-in-charge, Boginadi Police Station alleging that at about 12:30 PM on 08.04.2016 accused persons Sri Babakon Chutia and Smti. Durgeswari Chutia and Smti. Sadori Chutia forcibly tried to take her from her house to their house where her husband

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was secretly taking shelter. Then as her mother resisted the accused persons for their such act they assaulted her and her mother with stick causing griveous hurt to them. Hence, the case.

2. On receipt of the ejahar, the Officer-in-charge, Boginadi Police Station, registered a case vide Boginadi P.S. Case No. 52/2016 under section 147/148/149/325/506 of the Indian Penal Code and got the investigation into the case commenced. The investigating officer, after completing the investigation, submitted charge-sheet under section 294/323/506 of the Indian Penal Code against the accused persons Sri Babakon Chutia and Smti. Durgeswari Chutia to stand trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offence under section 294/323/506 of the Indian Penal Code was taken as per section 190(1)(b), Cr.P.C. The accused persons entered their appearance before this Court after receiving the summons. Copies were furnished to the accused persons as per provision contained in section 207, Cr.P.C. The particulars of the offence under section 294/323/506 of the Indian Penal Code were explained to the accused persons to which they pleaded not guilty and claimed to be tried.

**Points for determination**

4. The points which are required to be determined for a just decision of this case are as follows:

(a) Whether the accused persons, at about 12:30 PM on 08.04.2016, at village Hessamora under Boginadi Police Station, uttered slang words to Smti. Priyanka Borah and her mother Smti. Anjana Borah at or around public place, and thereby committed an offence punishable u/s 294 IPC ?

(b) Whether the accused persons, at about 12:30 PM on 08.04.2016, at village Hessamora under Boginadi Police Station, voluntarily caused hurt to Smti. Priyanka Borah and her mother Smti. Anjana Borah, and thereby committed an offence punishable u/s 323 IPC ?

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(c) Whether the accused persons, at about 12:30 PM on 08.04.2016, at village Hessamora under Boginadi Police Station, committed criminal intimidation by threatening Smti. Priyanka Borah and her mother Smti. Anjana Borah with dire consequences, and thereby committed an offence punishable u/s 506 IPC ?

5. During the trial the Prosecution side examined altogether 5 (five) witnesses, namely, Smti. Priyanka Borah (PW-1), Smti. Anjana Borah (PW-2), Sri Jayanta Borgohain (PW-3), Sri Bholaram Saikia (PW-4) and Smti. Lili Sojati (PW-5). In the instant case all the material witnesses have already been examined but they have not supported the prosecution case as such on the prayer of learned Addl. P.P. the prosecution evidence was closed. The statement defence of accused persons are recorded in which they pleaded innocence but declined to adduce evidence in defence.

6. I have heard the Argument of both sides and thereupon come to the following finding:

**DISCUSSION, DECISION AND REASONS THEREOF:**

7. At the very outset it is essential to have a brief resume of the versions of the witnesses in order to marshal the evidence in right perspective in tandem with the points for discussion.

8. PW-1 Smti. Priyanka Borah, informant-cum-victim, has deposed that the occurrence took place on 08.04.2016 at about 2:30 PM. She was married with a person named Sukhen Dutta of Dhemaji Mathikhula in the year 2014. Because of the torture, meted out to her by her husband and her in-laws, she returned to her parents' house. She filed a complaint case against her husband and her in-laws before the Court. Thereafter, her husband and her in-laws used to stay in the house of accused Babakon Chutia with a view to saving themselves from the case filed by her. On 08.04.2016, her husband and his parents and some villagers came to their house. Her parents told them that as they have already filed a case, so they cannot hand her over to them. Thereafter, her husband and his parents took shelter in the house of accused Babakon Chutia. On the same day, accused Babakon Chutia came

to their house and took her to his house by alluring her. Her mother and one Lili Sojati also followed her. She saw the vehicle of her husband outside of the house of accused Babakon Chutia. Seeing the vehicle of her husband, she turned back for returning to her house. Then accused Babakon Chutia pulled her towards the said vehicle by holding his hand. At that time, Lakheswar Chutia (Babakon Chutia's father) and Durgeswari Chutia (Babakon Chutia's elder sister), Hemlota Chutia (Babakon Chutia's mother) also tried to pull her by holding her. As a result, she sustained pain/hurt on her body and her clothes also got torn. Her mother and Lili Sajati reached the place of occurrence at that point of time. As her mother and Lili Sajati came and rescue her, accused Babakon Chutia and his wife Sarodi Chutia assaulted her with stick and also got hold of her hair and assaulted her with hands. They also assaulted her mother. As the villagers gathered there because of hue and cry, the accused persons left them. The wife of accused Babakon Chutia, Sarodi Chutia told her that they will have to hand over to her husband Sukhen Dutta, otherwise she will have to go there. Thereafter, she went to Boginadi Police Station and lodged an ejarah. Ext-1 is the ejarah wherein Ext-1(1) is her signature. The police examined her about the occurrence.

9. In her cross-examination, PW-1 has stated that she knows the contents of the ejarah. She had got the ejarah written from Hemanta Chutia. Prior to the occurrence, there was no fighting between them and the accused persons. They used to live with good terms with each other. On the day of occurrence, her husband had come to their house and immediately thereafter, he had gone to the house of the accused persons. They had not offered any tea or meal to her husband and his family members. It takes about 10 minutes by walking from their house to the house of the accused persons. She does not know if the police seized the 'lathi' (stick) from the place of the occurrence. She does not know if the accused persons have also lodged a case against her in connection with the same occurrence.

10. PW-2 Smti. Anjana Borah, another victim, has deposed that informant Priyanka Borah is her daughter. The occurrence took place at about 12:30 PM on 08.04.2016. In the year 2014 her daughter was married with one Sukhen Dutta of Dhemaji Matikhula and due to some differences between

them her daughter returned to her house. After 6 months of marriage, her daughter's husband, father-in-law, mother-in-law accompanied by five other persons came to their house to take her daughter and as her husband and other persons were not present in the house she did not allow them to take her daughter. Her daughter also did not agree to go to her husband's house but the husband of her daughter and their family members forcibly tried to take her and for that reason there was altercation between both the parties. Thereafter, her daughter lodged an ejahar at the police station and the other party also lodged a case against them.

11. In her cross-examination, PW-2 has stated that no occurrence of 'maar-pit' (physical fighting) took place between the parties. At present they have good terms with the accused persons and she does not have any objection if the accused persons are acquitted from this case.

12. PW-3 Sri Jayanta Borgohain has stated that the occurrence had taken place at about 2:00/2:30 PM, about two years ago, on the road near the house of Babakon Chutia. He was doing gardening work in the 'bari' land of his house. Hearing hue and cry from outside he went to the place of occurrence and saw the informant and the accused persons there. The informant and the accused persons were quarrelling with each other. He along with other villagers who had gathered there asked both the parties not to fight with each other. Thereafter, both the parties went away to their respective houses.

13. In her cross-examination, PW-3 has stated that he did not see any 'maar-pit' (physical fighting) taking place between the parties. He suspect that the quarrel had taken place as because the husband of the informant and her father-in-law and mother-in-law had entered into the house of the accused persons.

14. PW-4 Sri Bholaram Saikia has stated that on the day of the occurrence an altercation took place between the informant and the accused persons in front of house of Hemlata's house.

15. In his cross-examination, PW-4 has stated that he had not seen any occurrence of 'maar-pit' (physical fighting). He also did not hear the accused

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persons uttering any slang words. He knows that there is good terms between both the parties.

16. PW-5 Smti. Lili Sojati has stated that on the day of occurrence while she was going through the road he heard that an altercation took place between the informant and the accused persons on some matter. He had not heard about any occurrence of 'maar-pit' between the parties.

17. In her cross-examination, PW-5 has stated that at present both the parties are having good terms with each other. He heard that the occurrence took place due to some misunderstanding between both the sides.

18. What emerges from the evidence adduced on record is that only an altercation had taken place between the informant-cum-victim (PW-1) and another victim (PW-2) on one side and the accused persons on other side when the accused persons tried to take PW-1 from her mother's house to her husband's house. The main fact of the case as depicted from the evidence on record is that informant PW-1 Priyanka Dutta Bora's estranged husband and his family members had come to the house of the accused persons on the day of the occurrence. The accused persons tried called informant to their house and over this matter a quarrel place between both the sides. PW-2 Smti Anjana Bora and PW-5 Smti Lili Sojati as per the version of PW-1 to have come to the place of the occurrence, but both these witnesses have deposed that no physical fighting took place with accused persons. So, it is evidently clear from the evidence of the PWs that apart from altercation between the accused persons and the victims (PW-1 and PW-2) nothing else had happened. In their cross-examination, PWs have categorically stated that the accused persons did not assault PW-1 and PW-2 and the case was lodged out of misunderstanding and as such they do not have any objection if the accused persons are released from this case. Hence, it is apparent that there is not an iota of evidence in this case to the effect that the accused persons uttered obscene words to PW-1 and PW-2 or voluntarily caused hurt to PW-1 and PW-2 or criminally intimidated PW-1 and PW-2 with dire consequences as alleged.

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19. In the result, I am convinced that the prosecution has miserably failed to bring home the accusations under section 294/323/506 of the Indian Penal Code against the accused persons.

**ORDER**

20. In view of the discussion made above, the points for determination are decided against the prosecution and accused persons Sri Babakon Chutia and Smti. Durgeswari Chutia are acquitted of the accusations under section 294/323/506 of the Indian Penal Code. Consequently, the accused persons are set at liberty forthwith. The bail-bond of the accused persons stands cancelled and surety stands discharged.

21. Given under my hand and the seal of this Court on this the 20<sup>th</sup> day of April, 2019.

**(Shri Narayan Kuri)**  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur

Dictated & corrected by me-

**(Shri Narayan Kuri)**  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur

**A P P E N D I X**

**WITNESSES FROM THE PROSECUTION SIDE**

Smti. Priyanka Borah(PW-1)  
Smti. Anjana Borah (PW-2)  
Sri Jayanta Borgohain (PW-3)  
Sri Bholaram Saikia (PW-4)  
Smti. Lili Sojati (PW-5)

**PROSECUTION EXHIBITS**

Ejhar (Ext-1)

**WITNESSES FROM THE DEFENCE SIDE**

Nil

**DEFENCE EXHIBITS**

Nil

**(Shri Narayan Kuri)**  
Chief Judicial Magistrate,  
Lakhimpur, North Lakhimpur

Transcribed & types by-  
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