

**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. 2880/2017
U/s 447/294/506, IPC

State of Assam

-Vs-

Sri Atul Chetia
S/O: Late Akoman Chetia
R/O: Sonari Gaon
P.S: Bihpuria
District: Lakhimpur, Assam

.....Accused person

Date of offence explanation : 07.08.2018
Date of recording evidence : 18.06.2019
Date of argument : 18.06.2019
Date of judgment : **18.06.2019**

Advocates appeared in the case:-

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

Mr. Bogendra Kr. Buragohain, Advocate, for the accused person

J U D G M E N T

1. The prosecution case, in brief, is that on 28.09.2017 informant Sri Rabin Chetia has lodged an FIR with the Officer-in-charge of Bihpuria Police Station alleging that at about 7:00 PM on 27.09.2017 accused Sri Atul Chetia committed criminal trespass by entering into the house compound of the informant and caused damaged of the motorcycle bearing registration no. AS-07-2095 by hitting the same and thereafter took away the key of the said motorcycle. It is further alleged that the accused hurled slang words to the informant and threatened him to take his life as he asked for compensation from the

accused in connection with the damage of his motorcycle. Hence, the case.

2. The Officer-in-charge of Bihpuria Police Station, on receipt of the ejahar, registered a case vide Bihpuria P.S. Case No. 880/2017 under section 447/427/379/294/506 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 447/294/506 of the Indian Penal Code against accused Sri Atul Chetia to stand trial in the Court.

3. On receipt of the charge-sheet, cognizance of the offence under section 447/294/506 of the Indian Penal Code was taken as per section 190(1)(b) of the Code of Criminal Procedure. The accused person entered his appearance before this Court after receiving the summons. Copies were furnished to the accused person as per provision contained in section 207 of the Code of Criminal Procedure. The particulars of the offence under section 447/294/506 of the Indian Penal Code were explained to the accused person to which he 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 person, at about 7:00 PM, on 27.09.2017, at village Sonari Gaon, under Bihpuria Police Station, committed criminal trespass by entering into the house compound of informant Sri Rabin Chetia, and thereby committed an offence punishable u/s 447 of the Indian Penal Code ?

(b) Whether the accused person, at about 7:00 PM, on 27.09.2017, at village Sonari Gaon, under Bihpuria Police Station, hurled slang words to informant Sri Rabin Chetia, in and near any public place, and

thereby committed an offence punishable u/s 294 of the Indian Penal Code ?

(c) Whether the accused person, at about 7:00 PM, on 27.09.2017, at village Sonari Gaon, under Bihpuria Police Station, committed criminal intimidation by threatening Sri Rabin Chetia to take his life, and thereby committed an offence punishable u/s 506 of the Indian Penal Code ?

5. During the trial the Prosecution side examined only 1 (one) witness, namely, Sri Rabin Chetia (PW-1) (informant-cum-victim). In the instant case the informant-cum-victim has been examined but he has not stated any incriminating materials against the accused person, as such, learned Addl. P.P. prayed for closure of the prosecution evidence. Considering the materials in evidence, the prayer of the prosecution was allowed and the prosecution evidence was closed. The examination under section 313 of the Code of Criminal Procedure of the accused person was dispensed with as no incriminating circumstance appeared against him in the evidence adduced in this case. Both the sides advanced their respective arguments in this case.

DISCUSSION, DECISION AND REASONS THEREOF:

6. At the very outset it is essential to have a brief resume of the version of the informant-cum-victim in this case for proper appreciation of this case.

7. PW-1 Sri Rabin Chetia, informant-cum-victim, has stated that the accused is his younger brother. The occurrence took place in the day time in the year 2017 when an altercation took place between him and the accused in his house over the matter of asking for his motorcycle but he did not allow him to take his motorcycle and as such an altercation took place between him and the accused and out of anger he lodged the case. Ext-1 is the ejahar lodged by him wherein Ext-1(1) is his signature. In his cross-examination, he has stated that the accused is his own younger brother. The accused usually visited his

house. The case was lodged out of misunderstanding. The accused did not utter him with slang words. He does not have any objection if the accused is acquitted from this case.

8. What comes out from the evidence adduced on record is that the informant-cum-victim has not implicated the accused persons in any manner whatsoever as alleged in the ejahar. On the other hand, it is clearly evident from the evidence of PW-1 (informant-cum-victim) that the accused is his younger brother who used to frequent his house and on the day of occurrence the accused came to his house and asked for his motorcycle and as he did not give permission to him to take his motorcycle so an argument took place between him and the accused and out of anger he lodged an ejahar at the police station against the accused. In his cross-examination, he has categorically admitted that the accused did not rebuke him by uttering slang words and that he lodged the ejahar out of misunderstanding and as such he does not have any objection if the accused is released from this case. Hence, it is crystal clear that except altercation nothing else had happened in this case. So, it is apparent that there is no evidence in this case to the effect that the accused person committed criminal trespass by entering into the house compound of the informant or uttered slang words to him in and near any public place or criminally intimidated him threatening to take his life as alleged.

9. In the result, I am convinced that the prosecution has miserably failed to bring home the accusations under section 447/294/506 of the Indian Penal Code against the accused person.

ORDER

10. In view of the discussion made above, the points for determination are decided against the prosecution and accused Sri Atul Chetia is acquitted of the accusations under section 447/294/506 of the Indian Penal Code. Consequently, the accused person is set at liberty forthwith. The bail-bond of the accused person stands cancelled and surety stands discharged.

11. Judgment is declared and operative part of the same is pronounced in the open court and thereafter given under my hand and the seal of this Court on this the 18th day of June, 2019.

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

Dictated & corrected by me-

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

Contd. Appendix

A P P E N D I X

WITNESSES FROM THE PROSECUTION SIDE

Sri Rabin Chetia (PW-1)

PROSECUTION EXHIBITS

Ejahaar (Ext-1)

WITNESSES FROM THE DEFENCE SIDE

Nil

DEFENCE EXHIBITS

Nil

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

Transcribed & types by-
Sri Narayan Chetri, Stenographer