

IN THE COURT OF SESSIONS JUDGE : LAKHIMPUR :
AT NORTH LAKHIMPUR.

P R E S E N T - M.A.Choudhury,
Sessions Judge,
Lakhimpur, North Lakhimpur.

SESSIONS CASE NO.56(NL)2017.
Under Sections - 324/ 307 IPC.

P A R T I E S

State of Assam. ... Complainant.

-versus-

Sri Pradip Sonowal. ... Accused.

ADVOCATES APPEARED IN THE CASE :

Mr. Jagneswar Saikia, Public Prosecutor. For the State of Assam.
Mrs. Puspanjali Chutia, Advocate. For the Accused.

Date of framing of charge. : 28.06.2017.
Dates of taking evidence. : 24.10.2017, 19.12.2017 and 24.04.2019.
Date of hearing Argument. : 24.04.2019.
Date of delivery of Judgment: 24.04.2019.

J U D G M E N T

1. The case of the prosecution side may, in brief, be described thus :

The informant, Sri Ratneswar Sonowal on 19.10.2016 lodged an ejahar with Bihpuria Police Station stating inter alia that on 18.10.2016 at about 6.30 pm, while his son, Sri Prabin Sonowal was coming back to his house on foot, at that time, the

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accused, Sri Pradip Sonowal assaulted him with a 'dao' from his backside causing injuries upon his back. Soon after the occurrence, his son was taken to Bihpuria CHC, but the doctor of the Hospital referred his son at North Lakhimpur Civil Hospital, where his son underwent treatment as indoor patient.

2. On receiving the ejahar, the Officer-in-charge of Bihpuria Police Station registered a case vide Bihpuria P.S. Case No.783/2016 under Sections 307/ 326 IPC.

3. The police started the investigation of the case. In course of investigation, the I.O. visited the place of occurrence and prepared the sketch map of the place of occurrence. The I.O. recorded the statements of the witnesses u/s 161 CrPC. The I.O. arrested the accused, Sri Pradip Sonowal and forwarded him before the court. In course of investigation, the I.O. seized one 'dao' on being produced by Sri Samar Sonowal, the son of the victim, Sri Prabin Sonowal by preparing a Seizure List. The I.O. collected the Medical Examination Report of the victim, Sri Prabin Sonowal. After completion of investigation of the case, the I.O. of the case on being found sufficient incriminating materials against the accused, Sri Pradip Sonowal under Sections 324 / 307 IPC, accordingly submitted the charge-sheet against the accused, Sri Pradip Sonowal under Sections 324/ 307 IPC.

4. On receiving the charge-sheet, the learned Chief Judicial Magistrate, Lakhimpur, North Lakhimpur, took cognizance of the case and the case was transferred to the court of learned Addl. Chief Judicial Magistrate, Lakhimpur, North Lakhimpur. The learned Addl. Chief Judicial Magistrate, Lakhimpur, North Lakhimpur, after complying with the provisions of Sec.207 CrPC committed the case to this court for trial as the offence u/s 307 IPC is exclusively triable by the court of Sessions.

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5. The accused, Sri Pradip Sonowal made his appearance before the court. After hearing the learned advocates of both sides and perusing the case record, on being found sufficient incriminating materials against the accused person under Sections 324/ 307 IPC in the case record, the charges under Sections 324 / 307 IPC were framed against the accused person. The charges were read over and explained to the accused person, to which he pleaded not guilty and claimed to be tried.

6. In course of trial, the prosecution side examined 6 (six) witnesses.

7. The statement of the accused person was recorded u/s 313 CrPC. The accused person in his aforesaid statement denied commission of any offence.

8. The accused person denied to adduce any evidence in his defence.

9. Heard Argument from the learned advocates of both sides. I have perused the case record and the evidence adduced by the prosecution witnesses in the case very carefully.

10. The points for determination in this case are :

(I) Whether the accused, Sri Pradip Sonowal on 18.10.2016 at about 6.30 pm at No.1 Morisapathar under Bihpuria Police Station, voluntarily caused hurt to Sri Prabin Sonowal by means of a 'dao', a sharp cutting weapon?

(II) Whether the accused person voluntarily caused hurt upon the person of Sri Prabin Sonowal with a 'dao', a sharp cutting weapon with such intention and under such circumstances that if the accused by that act would cause death of Sri Prabin Sonowal, he would have been guilty of murder?

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11. DECISION AND REASONS THEREOF:

The prosecution side examined 6 (six) witnesses. PW.1 is Sri Prasad Sonowal. PW.2 is Sri Niran Sonowal. PW.3 is Sri Dimbeswar Sonowal. PW.4 is Sri Promod Sonowal. PW.5 is Sri Prabin Sonowal, who is the victim of the case. PW.6 is Sri Ratneswar Sonowal, who is the informant of the case.

PW.1, Sri Prasad Sonowal in his evidence stated that he knows the accused, Sri Pradip Sonowal and the informant, Sri Ratneswar Sonowal. He in his evidence also stated that he did not know anything about the occurrence. He also stated that he did not know if any occurrence had taken place between the parties.

This witness has been declared hostile by the prosecution and he was subjected to cross-examination by the prosecution side. But, the prosecution side while cross-examining this witness failed to bring out any material in support of the prosecution case.

There is no any incriminating material in his evidence against the accused person regarding commission of any offence.

PW.2, Sri Niran Sonowal in his evidence stated that he knows the informant, Sri Ratneswar Sonowal. He in his evidence also stated that he heard that some quarrelling had taken place between the accused, Sri Pradip Sonowal and the victim, Sri Prabin Sonowal. He also stated that he did not know what had happened actually at the place of occurrence.

This witness was declared hostile by the prosecution and he was subjected to cross-examination by the prosecution side. But, the prosecution side while cross-examining this

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witness, failed to bring out any material in favour of the prosecution case. He in his cross-examination by the defence side stated that he had only seen quarrelling between the victim, Sri Prabin Sonowal and the accused, Sri Pradip Sonowal, and other than this, he did not know anything about the occurrence.

On a careful scrutiny of the evidence adduced by PW.2, Sri Niran Sonowal, I do not find any incriminating material in his evidence against the accused person regarding commission of any offence.

PW.3, Sri Dimbeswar Sonowal in his evidence stated that he knows the accused person, who is his co-villager. He also knows the informant, Sri Ratneswar Sonowal. He in his evidence also stated that he did not know actually what had happened at the place of occurrence. He also stated that later on, he heard that some hue and cry was made in the place of occurrence. After the said occurrence, he went to the place of occurrence and saw penetrating injuries on the person of Sri Prabin Sonowal caused by blunt object. He in his evidence also stated that he had also seen injury on the chest of Sri Prabin Sonowal. He also stated that he came to know that the injuries upon the person of Sri Prabin Sonowal had been caused by the accused, Sri Pradip Sonowal. But, he in his evidence did not say from whom he had come to know that the accused, Sri Pradip Sonowal has caused injuries upon the person of Sri Prabin Sonowal. So, the evidence adduced by him is a hearsay evidence, which is inadmissible as evidence. But, he in his cross-examination further stated that he did not know how Sri Prabin Sonowal sustained injuries on his person.

On a careful scrutiny of the evidence adduced by PW.3, Sri Dimbeswar Sonowal, I do not find any material in his evidence against the accused person regarding commission of any offence.

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PW.4, Sri Promod Sonowal in his evidence stated that he knows the accused, Sri Pradip Sonowal and the informant, Sri Ratneswar Sonowal. He in his evidence also stated that the occurrence had taken place about one year back. He also stated that he had heard that a quarrel had taken place between Sri Prabin Sonowal and the accused, Sri Pradip Sonowal and in the said quarrelling, Sri Prabin Sonowal sustained injuries on his person. He also stated that he had gone to the place of occurrence. When he reached at the place of occurrence, police had already taken Sri Prabin Sonowal to North Lakhimpur Civil Hospital. He also stated that the police had called him to the house of Sri Pradip Sonowal and the police had seized a 'mit-'dao'' by preparing a Seizure List. He proved the Seizure List as Ext.1 and Ext.1(1) is his signature in it.

From the evidence of PW.4, Sri Promod Sonowal, it is found that he had not seen the occurrence. From his evidence, it is also found that he had heard that a quarrelling had taken place between the victim, Sri Prabin Sonowal and the accused, Sri Pradip Sonowal and in the said quarrelling, Sri Prabin Sonowal had sustained injuries, but there is nothing in his evidence from whom he heard about the occurrence. So, the evidence adduced by PW.4, Sri Promod Sonowal is a hearsay evidence, which is inadmissible as evidence. He in his cross-examination stated that he did not know how Sri Prabin Sonowal sustained injuries on his person. He also stated that he did not know what has been written in the Seizure List. The police asked him to put his signature in the Seizure List. There is no any incriminating material in his evidence against the accused person regarding commission of any offence.

PW.5, Sri Prabin Sonowal is the victim of the case. PW.5, Sri Prabin Sonowal in his evidence stated that the occurrence had taken place about 2 ½ years back in the evening time of a day. He also stated that the house of the accused is situated nearby his house and the accused is his maternal uncle. He in his evidence also stated

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that at the time of occurrence, his altercation had taken place with the accused, Sri Pradip Sonowal. He also stated that the accused person had not committed any 'marpit' upon his person. He in his evidence also stated that he is not willing to proceed with the case.

This is the evidence adduced by PW.5, Sri Prabin Sonowal, who is the victim of the case. There is no any incriminating material in his evidence against the accused person regarding commission of any offence.

PW.6, Sri Ratneswar Sonowal is the informant of the case. PW.6, Sri Ratneswar Sonowal in his evidence stated that the accused, Sri Pradip Sonowal is his brother-in-law, whose house is situated nearby his house. He in his evidence also stated that the victim, Sri Prabin Sonowal is his son. The occurrence had taken place on 18.10.2016 at about 6.30 pm. He in his evidence also stated that an altercation had taken place between the accused, Sri Pradip Sonowal and his son, Sri Prabin Sonowal on the village road. He also stated that the accused, Sri Pradip Sonowal had not committed any 'marpit' upon the person of his son, Sri Prabin Sonowal. He also stated that he had lodged the ejahar with the Police Station regarding the occurrence. He also stated that he had not seen the occurrence. On hearing the occurrence, he had lodged the ejahar with the Police Station. He in his cross-examination specifically stated that the accused, Sri Pradip Sonowal had not committed 'marpit' upon the person of his son, Sri Prabin Sonowal. He also stated that an altercation had taken place between the accused, Sri Pradip Sonowal and his son, Sri Prabin Sonowal.

This is the evidence adduced by PW.6, Sri Ratneswar Sonowal, who is the informant of the case. On a careful scrutiny of his evidence, I do not find any incriminating material in his evidence against the accused person for committing of any offence.

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12. Because of what have been discussed and pointed out here-in-above, it is appeared that the prosecution side has totally failed to prove the charges under Sections 324/ 307 IPC brought against the accused person and the accused person deserves to be acquitted.

13. I, therefore, hold the accused, Sri Pradip Sonowal not guilty and acquit him from the charges under Sections 324/ 307 IPC. The accused person is set at his liberty forthwith.

14. The bail bond of the accused person is cancelled and his surety is discharged.

15. The seized 'mit-'dao'' be handed over to the person from whom it was seized in due course of time.

16. Given under my hand and seal of this court on this the 24th day of April, 2019.

(M. A. Choudhury)
Sessions Judge,
Lakhimpur, North Lakhimpur.

Dictated & corrected by me -

(M.A.Choudhury)
Sessions Judge,
Lakhimpur, North Lakhimpur.

Transcribed & typed by-
Sri Satyabrata Kshattri, Stenographer.

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A P P E N D I X**1. WITNESSES EXAMINED BY THE PROSECUTION SIDE :**

- PW.1 - Sri Prasad Sonowal.
- PW.2 - Sri Niran Sonowal.
- PW.3 - Sri Dimbeswar Sonowal.
- PW.4 - Sri Promod Sonowal.
- PW.5 - Sri Prabin Sonowal, the victim of the case.
- PW.6 - Sri Ratneswar Sonowal, the informant of the case.

2. WITNESSES EXAMINED BY THE DEFENCE SIDE :

Nil.

3. DOCUMENTS PRODUCED IN THE CASE BY THE PROSECUTION SIDE :

Ext.1 - Seizure List.

4. DOCUMENTS PRODUCED IN THE CASE BY THE DEFENCE SIDE :

Nil.

(M. A. Choudhury)
Sessions Judge,
Lakhimpur, North Lakhimpur.