

GR CASE NO: 175 of 2017

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
LAKHIMPUR, NORTH LAKHIMPUR**

GR CASE NO: 175 of 2017

Under section 341/294/352/506/34 IPC.

State

-Versus-

Sri Jayanta Borah

Sri Bodheswar Borah

Sri Khileswar BorahAccused Persons

**PRESENT : Sri Jayanta Kumar Saikia, AJS
Judicial Magistrate, First Class
Lakhimpur, North Lakhimpur.**

ADVOCATES APPEARED-

FOR THE PROSECUTION : Sri Debajit Dutta Borah.

FOR THE ACCUSED : Smt. Chitralkha Chetia

CHARGED FRAMED ON : 24.01.2019

EVIDENCE RECORDED ON : 19.03.2019

ARGUMENT HEARD ON : 19.03.2019

JUDGMENT DELIVERED ON: 19-03-2019.

JUDGMENT

- 1.** The prosecution case in brief is that on 13.01.2017, at about 9 pm, the accused persons namely, Sri Jayanta Borah, Sri Bodheswar Borah and Sri Khileswar Borah, wrongfully restrained the informant, namely, Sri Biren Saikia and his sons, namely, Sri Pranjit Saikia and Sri Abhijit Saikia and physically assaulted them. It is further alleged that the accused persons scolded the informant and his sons in filthy language and also criminally intimidated them with dire consequences. Hence, he lodged this case.
- 2.** The Officer-in-charge, Bihpuria Police Station, on receipt of Ejahar registered Bihpuria P.S. Case No. 52/2017, under section 325/307/506/341/294/34 of IPC and endorsed the concerned I.O for investigation. After completion of the investigation, the concerned I.O. submitted charge sheet against the accused persons, Sri Jayanta Borah, Sri Bodheswar Borah and Sri Khileswar Borah under section 341/294/352/506/34 of IPC.
- 3.** In due course, the accused persons appeared before the Court on receipt of summons and the copies of relevant documents were furnished to them as per section 207 of CrPC. Having found a prima facie case against the accused persons under section 341/294/352/506/34 of IPC and the particulars of offences under Section 341/294/352/506/34 of IPC, are read over and explained to them vide order dated 24.01.2019 to which they pleaded not guilty and claimed to be tried.
- 4.** The prosecution, in support of its case, examined four (04) witnesses, who are the informant and victims of the case. The Learned Asstt. Public Prosecutor prayed to close the PW evidence as the principal witnesses, who are the informant and victims of the case, do not support the prosecution story.
- 5.** The statements of the accused persons under section 313 of Cr.PC is dispensed with as there is no incriminating materials found against the accused persons. Defence side examined no witnesses.

6. I have heard the arguments advanced by the learned counsels for both sides.

7. POINTS FOR DETERMINATION:-

(i) Whether on 13.01.2017 at about 9 pm, at No-2 Rajbari under the jurisdiction of Bihpuria Police Station, the accused persons, in furtherance of their common intention, wrongfully restrained the informant, namely, Sri Biren Saikia and the victims, namely, Abhijit Saikia and Sri Pranjit Saikia and thereby committed an offence punishable under Section-447 of IPC, Read with Section-34 of IPC?

(ii) Whether on the same date, at the same time, at the same place under the jurisdiction, of Bihpuria Police Station, the accused persons, in furtherance of their common intention, scolded the informant namely, Sri Biren Saikia and the victims, namely, Abhijit Saikia and Sri Pranjit Saikia in filthy language and thereby committed an offence punishable under Section-294 of IPC, Read with Section-34 of IPC?

(iii) Whether on the same date, at the same time, at the same place under the jurisdiction, of Bihpuria Police Station, the accused persons, in furtherance of their common intention, used criminal force to the informant, namely, Sri Biren Saikia and the victims, namely, Abhijit Saikia and Sri Pranjit Saikia and thereby committed an offence punishable under Section-352 of IPC, Read with Section-34 of IPC?

(iv) Whether on the same date, at the same time, at the same place under the jurisdiction, of Bihpuria Police Station, the accused persons, in furtherance of their common intention, criminally intimidated the informant, namely, Sri Biren Saikia and the victims, namely, Abhijit Saikia and Sri Pranjit Saikia with dire consequences and thereby committed an offence punishable under Section-506 of IPC, Read with Section-34 of IPC?

DISCUSSION, DECISION AND REASONS THEREOF:

- 8.** In the instant case, the prosecution side adduced only the evidences of PW-1 (informant), PW2 (victim), PW3 (victim) and PW4 (independent witness) to establish their case but none of the PWs have supported the prosecution story.
- 9.** The evidence of **PW1**, namely, Sri Biren Saikia, who is the informant of the case reveals that the accused persons, namely, Sri Jayanta Borah, Sri Bodheswar Borah and Sri Khileswar Borah are his co-villagers. He deposed in his examination-in-chief that he lodged this case in the year-2017 due to misunderstanding. He deposed that at the time of “Magh bihu” a verbal altercation took place between them and they have amicably settled their dispute with the intervention of the village elders. He does not want to proceed with the case by adducing evidence. In his cross-examination, he deposed that he has no allegation against the accused persons. They are living peacefully.
- 10.** The evidence of **PW2**, namely, Sri Abhijit Saikia, who is one of the victims of the case and son of the informant reveals that the accused persons, namely, Sri Jayanta Borah, Sri Bodheswar Borah and Sri Khileswar Borah are his co-villagers. He deposed in his examination-in-chief that his father lodged this case in the year-2017 due to misunderstanding. He deposed that at the time of “Magh bihu” a verbal altercation took place between them and they have amicably settled their dispute with the intervention of the village elders. He does not want to proceed with the case by adducing evidence. In his cross-examination, he deposed that he has no allegation against the accused persons. They are living peacefully.
- 11.** The evidence of **PW3**, namely, Sri Pranjit Saikia, who is one of the victims of the case and son of the informant reveals that the accused persons, namely, Sri Jayanta Borah, Sri Bodheswar Borah and Sri Khileswar Borah are his co-villagers. He deposed in his examination-in-chief that his father lodged this case in the

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year-2017 due to misunderstanding. He deposed that at the time of "Magh bihu" a verbal altercation took place between them and they have amicably settled their dispute with the intervention of the village elders. He does not want to proceed with the case by adducing evidence. In his cross-examination, he deposed that he has no allegation against the accused persons. They are living peacefully.

- 12.** The evidence of **PW4**, namely, Sri Achyut Saikia, who is nephew of the informant reveals that the accused persons, namely, Sri Jayanta Borah, Sri Bodheswar Borah and Sri Khileswar Borah are his co-villagers. He deposed in his examination-in-chief that his uncle lodged this case in the year-2017 due to misunderstanding. He deposed that at the time of "Magh bihu" a verbal altercation took place between his uncle, his cousins and the accused persons and they have amicably settled their dispute with the intervention of the village elders. He does not want to proceed with the case by adducing evidence. In his cross-examination, he deposed that he has no allegation against the accused persons. They are living peacefully.
- 13.** The Learned Asstt Public Prosecutor prayed to close the PW evidence as the principal witnesses, who are the informant and the victim of the case have not supported the prosecution case. After going through the testimonies of the PW1 (informant), PW2 (victim), PW3 (victim) and PW4 in this case, it is seen that they have no allegation against the accused persons as the case was lodged due to misunderstanding. Their testimonies reveal that they do not want to proceed with the case by adducing evidence as they have amicably settled their disputes. The testimonies of the aforesaid witnesses are voluntary and at present, they are living peacefully. There is nothing in the evidence incriminating the accused persons that they have committed an offence punishable under section-341/294/352/506/34 of IPC.
- 14.** Situated thus, in my considered opinion the prosecution side has failed to bring home the guilt of the accused persons under

offence punishable under section 341/294/352/506/34 of IPC as the informant and victims of the case did not support the prosecution story.

ORDER

In the light of aforesaid discussions and reasons, it is seen that the prosecution side failed to prove the guilt of the accused persons.

Accordingly, the accused persons, namely, Sri Jayanta Borah, Sri Bodheswar Borah and Sri Khileswar Borah are acquitted of the offences under Section 341/294/352/506/34 of IPC and they are set at liberty forthwith.

The bail bonds of the accused persons and their sureties shall remain in force for a period of 6 months from today as per amended CrPC.

Given under my hand and seal of this court on this 19th day of March, 2019.

Sri Jayanta Kumar Saikia
Judicial Magistrate, First Class,
Lakhimpur, North Lakhimpur

Typed by me :
Steno Gr.III
Debashis Bhuyan

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APPENDIX

PROSECUTION EXHIBITS:

NIL

DEFENCE EXHIBITS

NIL

PROSECUTION WITNESSES

PW-1: Sri Biren Saikia (informant)

PW-2: Sri Abhijit Saikia (victim)

PW-3: Sri Pranjit Saikia (victim)

PW-4: Sri Achyut Saikia

DEFENCE WITNESSES

NONE

MATERIAL EXHIBITS

NIL

Sri Jayanta Kumar Saikia
Judicial Magistrate, First Class,
Lakhimpur, North Lakhimpur