

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

**GR CASE NO: 3296 of 2016**

**Under Section 447/323/294 IPC.**

**State**

**-Versus-**

**Md. Phulsad Ali ..... Accused Person**

**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 : Md. Tayabur Rahman**

**OFFENCE EXPLAINED ON: 13.09.2018**

**EVIDENCE RECORDED ON : 06-06-2019 & 24.06.2019**

**ARGUMENT HEARD ON : 24-06-2019**

**JUDGMENT DELIVERED ON: 25.06.2019.**

**JUDGMENT**

- 1** The prosecution case is brief is that the informant, Mustt. Hazera Khatun has lodged an ejahar against the accused person, Md. Fulchand Ali and naming two other persons alleging that the

accused persons used to eve tease her daughter, Mustt. Parbina Begum on various occasions. It is also alleged that on 28.12.2016 at 8 pm, when her daughter, Mustt. Parbina Begum was going to the market, the accused person followed her and trespassed into the compound of the house of the informant. It is further alleged that when Md. Abdul Hamid, son of the informant protested such behavior of the accused person, the accused person caused injury to her son, Md. Abdul Hamid by means of knife and also assaulted her another son, Md. Abdul Hamed with an iron-rod. Hence, she lodged this case.

- 2** The Officer-in-charge, North Lakhimpur Police Station, on receipt of Ejahar, registered North Lakhimpur P.S. Case No. 1297/2016, under section 354/447/326/448/325/307/34 of IPC and endorsed the concerned IO for investigation. After completion of the investigation, the concerned I.O. submitted charge sheet against the accused person, Md. Phulsad Ali under Section 447/323/294/34 of IPC.
- 3** In due course, on receipt of summon, the accused person appeared before the Court and the copies of relevant documents were furnished to him as per section 207 of CrPC. Having found a prima facie case against the accused person under Section 447/323/294 of IPC, the particulars of offences under section 447/323/294 of IPC are read over and explained to the accused person vide order dated 13.09.2018, to which he pleaded not guilty and claimed to be tried.
- 4** The prosecution, in support of its case, examined three (03) witnesses. The Learned Assistant Public Prosecutor prayed to close the PW evidence as the principal witnesses i.e, the informant and the victims of the case do not support the prosecution case.
- 5** The statement of the accused person under section 313 of Cr.PC is dispensed with as there are no incriminating materials found against the accused person. 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 28.12.2016, at about 8 pm, at KB Ward No-12 under the jurisdiction of North Lakhimpur, committed criminal trespass by entering the house of the informant, Mustt. Hazera Khatun and thereby committed an offence punishable under Section-447 of IPC?

(ii) Whether, on the same date, at the same time, at the same place under the jurisdiction of North Lakhimpur Police station, voluntarily caused hurt to the victim, namely, Md. Abdul Hamid and thereby committed an offence punishable under Section-323 of IPC?

(iii) Whether, on the same date, at the same time, at the same place under the jurisdiction of North Lakhimpur Police station, scolded the victim Mustt. Parbina Begum in filthy language and thereby committed an offence punishable under Section-294 of IPC?

**DISCUSSION, DECISION AND REASONS THEREOF**

**8** In the instant case, the prosecution side adduced the evidence of PW-1 (informant), PW2 (victim) and PW3 (victim) to establish their case but none of the PWs have supported the prosecution story.

**9** The evidence of **PW1**, Mustt. Hazera Khatun, who is the informant and mother of the victims of the case, reveals that she had lodged this case against the accused person, Md. Phulsad Ali, whose house is situated near her residence. She says that she has lodged this case against the accused person, due to misunderstanding about a few years back. They have amicably settled their dispute and she does not want to proceed with the case by adducing evidence. In her cross-examination, PW1 states that she has no allegation against the accused person. Her cross-examination reveals that she has no objection, if the accused person gets acquittal in this case.

**10**The evidence of **PW2**, namely, Md. Abdul Hamid, who is one of the victims of the case and son of the informant (PW1) reveals that his mother (PW1) has lodged this case against the accused person. His mother (PW1) has lodged this case against the accused person, due to misunderstanding about a few years back. He has stated that they have amicably settled their dispute and he does not want to proceed with the case by adducing evidence. In his cross-examination, PW2 states that he has no allegation against the accused person. His cross-examination also reveals that he has no objection, if the accused person gets acquittal in this case.

**11**The evidence of PW3, namely, Mustt. Parbina Begum, who is another victim of the case and daughter of the informant (PW1) reveals that the accused person, Md. Phulsad Ali is her neighbour and she knows him. She says in her evidence that her mother (PW1) has lodged this case against the accused person, due to misunderstanding about a few years back. She also says that they have amicably settled their dispute and she does not want to proceed with the case by adducing evidence. She has stated that the matter was amicably settled between them with the intervention of village elders and family well-wishers. In her cross-examination, PW3 states that she has no allegation against the accused person. Her cross-examination also reveals that she has no objection, if the accused person gets acquittal in this case.

**12**The Learned Assistant Public Prosecutor prayed to close the PW evidence stating that the principal witnesses, who are the informant and the victims of the case have not supported the prosecution case. PW1 (informant), PW2 (victim) and PW3 (victim) deposed in their testimonies that they have no allegation against the accused person 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 dispute. The testimonies of the aforesaid witnesses are voluntary and their testimonies reveal that at

present, they have no objection, if the accused person gets acquittal in this case. There is nothing in the evidence incriminating the accused person that he has committed an offence under section- Section 447/323/294 of IPC.

**13** Situated thus, in my considered opinion, the prosecution side has failed to bring home the guilt of the accused person offence under section 447/323/294 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 has failed to prove the guilt of the accused person. Accordingly, the accused person, Md. Phulsad Ali is acquitted of the offence under Section 447/323/294 of IPC and he is set at liberty forthwith.

The bail bonds and surety of the accused person 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 25<sup>th</sup> day of June, 2019.**

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

**GR Case No-3296 of 2016**

**APPENDIX**

***PROSECUTION EXHIBITS:***

NIL

***DEFENCE EXHIBITS***

NIL

***PROSECUTION WITNESSES***

PW-1: Mustt. Hazera Khatun (informant)

PW-2: Md. Abdul Hamid (victim)

PW-3: Mustt. Parbina Begum (victim)

***DEFENCE WITNESSES***

NONE

***MATERIAL EXHIBITS***

NIL

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Judicial Magistrate, First Class,  
Lakhimpur, North Lakhimpur.