

**IN THE COURT OF JUDICIAL MAGISTRATE 1<sup>ST</sup> CLASS,  
LAKHIMPUR, NORTH LAKHIMPUR.**

**GR CASE NO.2532/2017  
U/S 448/294/352/506/34 IPC.**

**PRESENT:**

**SMT. SWEETY BHUYAN**  
Judicial Magistrate 1<sup>st</sup> Class  
Lakhimpur, North Lakhimpur.

**PARTIES:**

**STATE OF ASSAM**

**Vs**

**(1) MD. ABDUL MUTALEB**

**(2) MD. ISMAIL ALI**

..... **ACCUSED PERSONS**

**Appearance:**

For the State .....: MR. JANGKI DOLEY

For the accused persons .....: MD. MOHIDUL ISLAM

Date of Evidences .....: 26.09.2019, 25.10.2019

Date of Argument .....: 19.11.2019

Date of Judgment .....: 04.12.2019

**JUDGMENT**

1. The accused persons, namely, **Md. Abdul Mutaleb**, Son of Late

Akash Ali and **Md. Ismail Ali**, Son of Late Abdul Jalil, both are R/o Rangpuria Sani Pukhuri, Police Station- North Lakhimpur, in the District of Lakhimpur, here in this case have been put to trial to answer the charges for the offence Punishable under Sections 448/294/352/506/34 of the Indian Penal Code.

2. The brief facts of the prosecution case is that on 30.08.2017 at about 02:30 P.M., during the absence of the husband of the informant, both the accused persons trespassed into the house of the informant and uttered obscene words against her and pulled her out of the house by catching her hands. By that time the mother-in-law of the informant Sameran Nessa reached and the accused persons assaulted her with bamboo posts and thereafter, assaulted the husband of the informant with lathi and threatened to kill him. Hence, the case, and the same was registered as North Lakhimpur Police Station Case No.1101/2017 under Sections 448/294/325/354/506/34 of the Indian Penal Code against two persons, namely, Md. Abdul Mutaleb and Md. Ismail Ali, named in the ejahar. The Investigating Officer submitted Charge Sheet against the two accused persons, namely, Md. Abdul Mutaleb and Md. Ismail Ali, under Sections 448/294/323/354/506/34 of the Indian Penal Code.
3. After appearance of the accused persons, the copies of the relevant documents were furnished to them. On going through the materials on record, this court is of the opinion that there is sufficient grounds

to presume that the accused persons have committed an offence under Sections 448/294/352/506/34 of the Indian Penal Code, which this court is competent to try and adequately punish. Accordingly formal charges are framed under the aforesaid Section and the particulars of the said offences are read over and explained to the accused persons, to which they pleaded not guilty and claimed to be tried.

4. In support of the case, the prosecution has adduced 3(three) PWs. The statement of the accused persons u/s 313 CrPC is dispensed with due to lack of incriminating materials.
5. After perusing the case record and hearing both sides the following points for determination are framed:

**The Points for Determination:**

- (i) Whether the accused persons, on 30.08.2017 at about 2:30 P.M., in furtherance of their common intention, entered into the house of the informant with the intent to commit an offence, and thereby committed an offence punishable under section **448/34** of IPC?
- (ii) Whether the accused persons, on 30.08.2017 at about 2:30 P.M., in the house of the informant, in furtherance of their common intention, uttered obscene words against the informant, in or near any public place to the annoyance of other persons, and thereby committed an offence under section **294/34** IPC?

- (iii) Whether the accused persons, on 30.08.2017 at about 2:30 P.M. in the house of the informant, in furtherance of their common intention, assaulted or used criminal force against the informant, her mother-in-law Somiran Nessa and her husband, otherwise then on grave and sudden provocation given by them, and thereby committed an offence punishable under section **352/34** IPC?
- (iv) Whether the accused persons, on 30.08.2017 at about 2:30 P.M., in furtherance of their common intention, criminally intimidated the informant and her family members with the threat to cause death and thereby committed the offence under Section **506/34** IPC?

**DECISIONS AND REASONS FOR DECISION:**

- 6.** I have heard the argument from both sides.
- 7.** All the points for determination are decided together for the purpose of convenience.

The informant in her evidence before the court as PW1 stated that the incident took place about six months ago at about 11 A.M. in the court yard of my house. On the day of the incident, there was an altercation between her and her husband on one side with the accused persons. The accused persons did not assault her or her husband or his mother Samiran Nesa. There was misunderstanding between them and she lodged this case against the accused persons out of anger.

In cross-examination the PW1 stated that she has no grievances against the accused persons and if they are acquitted, she has no objection.

The PW2 stated in his evidence that the incident took place about two years ago at about 3 P.M. in the court yard of his house. On the day of the incident, there was an altercation between him and his wife on one side with the accused persons. The accused persons did not assault him or his wife or his mother Samiran Nesa. One of the accused is his relative and the other is his neighbour. Due to the quarrel, there was misunderstanding between them and his wife lodged this case against the accused persons out of anger.

In cross-examination the PW2 stated that he has no grievances against the accused persons and if they are acquitted, he has no objection.

The PW3 stated in her evidence that the incident took place about two years ago in the noon in their house. On the day of the incident, she was not present. But when she returned, she saw altercation between her daughter-in-law and the accused persons. The accused persons did not assault her, i.e., PW3.

In her cross-examination, the PW3 stated that the informant lodged this case out of anger. After lodging the ejahar, both the parties have been staying peacefully and they have settled the matter amicably. She has no grievances against the accused persons and if they are acquitted, she has no objection.

From the evidences of PW1/informant/victim, PW2/victim and PW3/victim, it can be known that on the day of the incident there was an altercation between both the parties. All the PWs including the informant stated that nobody assaulted them. The informant lodged this case against the accused persons out of anger. And, it can be seen that the PW1, PW2 and PW3 did not state about any offence committed by the accused persons, as such, the prosecution has failed to establish the guilt of the accused persons u/s 448/294/352/506/34 the Indian Penal Code beyond reasonable doubt, thereby making them not guilty under the said Sections.

**(Contd....)**

**ORDER**

As this court finds the accused persons, namely, **Md. Abdul Mutaleb and Md. Ismail Ali**, not guilty of the offence u/s 448/294/352/506/34 of IPC, the accused persons are acquitted of the charges u/s 448/294/352/506/34 of IPC.

The accused persons are set at liberty forthwith.

The bail bonds of the accused persons are extended for 6 (six) months from today.

The judgment is pronounced in the open court.

**Given under my hand and seal of this court on 4<sup>th</sup> of December, 2019.**

(SMT. SWEETY BHUYAN)  
JUDICIAL MAGISTRATE 1<sup>ST</sup> CLASS  
LAKHIMPUR, NORTH LAKHIMPUR

Dictated & Corrected by me:

(SMT. SWEETY BHUYAN)  
JMFC, NORTH LAKHIMPUR

Transcribed & typed by me:

Kumar Gaurav (Stenographer)

**APPENDIX**

**Prosecution witnesses**

1. PW1: MOIFUL BEGUM
2. PW2: MD. JAHIDUL ISLAM
3. PW3: SOMIRAN NESA

**Defence witnesses**

Nil.

**Documents exhibited by the prosecution**

1. Ext.1: EJAHAR

**Documents exhibited by the Defence**

Nil.

(SMT. SWEETY BHUYAN)  
JUDICIAL MAGISTRATE 1<sup>ST</sup> CLASS  
LAKHIMPUR, NORTH LAKHIMPUR

Dictated & Corrected by me:

(SMT. SWEETY BHUYAN)  
JMFC,NORTH LAKHIMPUR

Transcribed & typed by me:

Kumar Gaurav (Stenographer)