

**IN THE COURT OF JUDICIAL MAGISTRATE 1ST CLASS,
LAKHIMPUR, NORTH LAKHIMPUR.**

**GR CASE NO.395/2018
U/S 448/294/506/34 IPC.**

PRESENT:

SMT. SWEETY BHUYAN
Judicial Magistrate 1st Class
Lakhimpur, North Lakhimpur.

PARTIES:

STATE OF ASSAM

Vs

1. SRI TILAK KUKHREL @ TILAK POKHREL

2. SRI CHABILAL KANDAL

..... ACCUSED PERSONS

Appearance:

For the State: MR. JANGKI DOLEY

For the accused persons: MR. DIPAK POKHREL

Date of Evidence: 27.11.2019

Date of Argument: 27.11.2019

Date of Judgment: 11.12.2019

JUDGMENT

- 1. The accused persons, namely, Sri Tilak Kukhrel @ Tilak Pokhrel,**
Son of Sri Ghanashyam Kukhrel @ Tilak Pokhrel, R/o Village – Samiri,

Police Station- Helem, District - Biswanath and **Sri Chabilal Kandal**, Son of Late Sadananda Kandal, R/o Village - Chamaguri, Police Station - Narayanpur, District - Lakhimpur, here in this case have been put to trial to answer the charges for the offence Punishable under Section 448/294/506/34 of the Indian Penal Code.

2. The brief facts of the prosecution case is that on 19.02.2018 at 12 noon, the accused persons trespassed into the house of the informant and uttered obscene words against him and criminally intimidated him. Hence, the case, and the same was registered as Narayanpur Police Station Case No.44/2018 under Sections 448/294/506/34 of the Indian Penal Code against Sri Tilak Kukhrel @ Tilak Pokhrel and Sri Chabilal Kandal named in the ejahar. The Investigating Officer submitted Charge Sheet against the accused persons, namely, Sri Tilak Kukhrel @ Tilak Pokhrel, Sri Jatindra Upadhyaya and Sri Chabilal Kandal under Sections 447/294/506/34 IPC. The accused Jatindra Upadhyaya expired during the pendency of the trial, and as such, the instant case was abated against him.
3. After appearance of the accused persons, the copies of the relevant documents were furnished to the accused persons. Upon hearing and on perusal of the case record the particulars of offence under sections 448/294/506/34 of IPC were 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 1(one) PW, i.e.,

the informant. Defence adduced none. The statement of the accused persons u/s 313 CrPC are 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 Point for Determination:

- (i) Whether the accused persons, on 19.02.2018 at 12 noon, in furtherance of their common intention, committed house trespass by entering into the house of the informant with intent to commit an offence, and thereby committed offence under Section **448/34** of IPC?
- (ii) Whether the accused persons, on 19.02.2018 at 12 noon, 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 19.02.2018 at 12 noon, in the house of the informant, in furtherance of their common intention, criminally intimidated the informant 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 stated in his ejahar that on 19.02.2018 at 12 noon, the accused persons trespassed into the house of the informant and uttered obscene words against him and criminally intimidated him.

The informant in his evidence before the court as PW1 stated that the accused persons are his relatives. The incident took place on 19.02.2018 at about 12 P.M. in his house. There was some misunderstanding between him and the accused persons on some household matters, and as such, he lodged the case out of anger against the accused persons. The accused persons are staying with him peacefully since the lodging of the case.

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

The PW2 stated in his evidence that the accused persons are his relatives. The incident took place about two years ago in the day time in the house of the informant. There was some misunderstanding between the informant and the accused persons on some household matters, and as such, the informant lodged the case out of anger against the accused. He was not present at the time of the quarrel.

In his cross-examination, the PW2 deposed that at the time

of the incident, he was not present, as such, he will not be able to say what exactly happened. He only knows that there were quarrels between both the parties and nothing more.

From the evidence of the informant/PW1 and PW2, it can be known that both the parties are relatives and on the day of the incident, there was some misunderstanding between the informant and the accused persons on some household matters, and as such, the informant lodged this case out of anger against the accused persons. The accused persons are staying with the informant peacefully since the lodging of the case. Moreover, the PW2 stated the same thing as stated by the informant, but he also stated that he was not present at the time of the incident. And, it can be seen that the informant and his witness did not state about offence committed by the accused persons, as such, the prosecution has failed to establish the guilt of the accused persons u/s 448/294/506/34 the Indian Penal Code beyond reasonable doubt, thereby making them not guilty under the said Sections.

(Contd....)

ORDER

As this court finds both the accused persons, namely, **Sri Tilak Kukhrel @ Tilak Pokhrel** and **Sri Chabilal Kandal**, not guilty of the offence u/s 448/294/506/34 of IPC, the accused persons are acquitted of the charges u/s 448/294/506/34 of IPC.

The accused persons are set at liberty forthwith.

The bail bonds 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 11th of December, 2019.

(SMT. SWEETY BHUYAN)
JUDICIAL MAGISTRATE 1ST 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: UMANATH UPADHYAYA
2. PW2: DIPAK UPADHYAYA

Defence witnesses

Nil.

Documents exhibited by the prosecution

1. Ext.1: Ejahar

Documents exhibited by the Defence

Nil.

(SMT. SWEETY BHUYAN)
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