

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

**GR CASE NO.2176/2018  
U/S 427/448/352 IPC.**

**PRESENT:**

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

**PARTIES:**

**STATE OF ASSAM**

**Vs**

**MD. RUPSAN ALI**

..... **ACCUSED PERSON**

**Appearance:**

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

For the accused person .....: MR. SUCHIL BORI

Date of Evidence .....: 03.10.2019

Date of Argument .....: 17.10.2019

Date of Judgment .....: 22.10.2019

**JUDGMENT**

1. The accused, namely, **Md. Rupsan Ali**, Son of Md. Motaleb Ali, R/o Saboti Tiniali, Police Station - North Lakhimpur, District - Lakhimpur,

in the District of Lakhimpur, here in this case has been put to trial to answer the charges for the offence Punishable under Section 427/448/352 of the Indian Penal Code.

2. The brief facts of the prosecution case is that on 27.08.2018 at about 9 P.M. the accused persons named in the ejahar came to the house of the informant and started breaking the kutcha walls of the house of the informant and when the informant restrained them, the accused Rupsan Ali assaulted him. When the wife of the informant Jahanara Begum came and restrained the accused, the accused Rupsan Ali kicked her on her stomach and she was 7 months pregnant at that time, and as such, her health condition became critical and she was admitted in the North Lakhimpur Civil Hospital. Hence, the case, and the same was registered as North Lakhimpur Police Station Case No.960/2018 under Sections 447/427/323/325/354/34 of the Indian Penal Code against Md. Rupsan Ali, Md. Tilu Ali, Miss Fajila Khatoon and Miss Rohima Khatoon named in the ejahar. The Investigating Officer submitted Charge Sheet against one accused, namely, Md. Rupsan Ali under Sections 447/427/323/354 of the Indian Penal Code.
3. After appearance of the accused, the copies of the relevant documents were furnished to him. Upon hearing and on perusal of the case record the particulars of offence under sections 427/448/352 of IPC were read over and explained to the accused person to which he 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/victim. The statement of the accused 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 person, on 27.08.2018 at about 9 P.M., committed mischief in the house of the informant and broke the katcha walls of his house and thereby caused loss or damage to the amount of more than Rs.50/-, and thereby committed offence under section **427** of the Indian Penal Code
- (ii) Whether the accused person, on 27.08.2018 at about 9 P.M. in trespassed into the house of the informant with the intent to commit an offence and thereby committed house trespass, and thereby committed an offence punishable under section **448** of the Indian Penal Code
- (iii) Whether the accused person, on 27.08.2018 at about 9 P.M. in the house of the informant, assaulted or used criminal force against the informant and his wife, namely, Jahanara Begum, otherwise than on grave and sudden provocation given by them, and thereby committed an offence punishable under section **352** of the Indian Penal Code?

**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 PW1/informant, namely, Md. Ruhul Amin, stated in his evidence that the incident took place about one year ago near his house at about 6 P.M. relating to some land. There was a quarrel between him and the accused as there are land disputes between them, and his wife Jahanara Begum intervened and she fell down as there was scuffling between him and the accused. The accused did not assault him. He did not sustain any injury. His wife also did not sustain any injury. The accused did not assault his wife.

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

From the evidences of PW1, it can be known that there was a quarrel between him and the accused relating to some land. The informant/PW1 also stated that the accused did not assault him or his wife and he and his wife did not sustain any injury. Moreover, in his cross-examination, the PW1/informant deposed that he has no grievances against the accused.

Hence, it can be seen that the informant/PW1 did not state about any offence committed by the accused person against him or his wife. As such, considering all the above, the prosecution has

failed to establish the guilt of the accused person u/s 427/448/352 IPC beyond reasonable doubt, thereby making him not guilty under the said Sections.

**ORDER**

As this court finds the accused person, namely, **Md. Rupsan Ali**, not guilty of the offence u/s 427/448/352 of IPC, the accused person is acquitted of the charges u/s 427/448/352 of IPC.

The accused person is set at liberty forthwith.

The bail bond is 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 22<sup>nd</sup> Day of October, 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: MD. RUHUL AMIN

**Defence witnesses**

Nil.

**Documents exhibited by the prosecution**

1. Ext.1: EJA HAR

**Documents exhibited by the Defence**

Nil.

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